SENATE—*Friday, June 13, 1986*

(Legislative day of Monday, June 9, 1986)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable FRANK H. MURKOWSKI, a Senator from the State of Alaska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Eternal Father in Heaven, we thank You for the legislative wisdom that created Father's Day. Grant to all Members of Congress grace to keep faith with this celebration which they generated. Help all fathers to comprehend the consummate tragedy of a fatherless home—whether the father is absent or whether, though present, his priorities are elsewhere.

Father God, You began the human race with a father and mother. Their union was to image You to their family and posterity. What monumental tragedy when a father fails in his role! Forgiving Father, how many youth have fallen into waywardness? How many into drugs, alcohol, and sex and crime, how many in prisons—how many who live in the streets today—are victims of a father's failure to be a male model a lad could safely emulate? We pray for those whose lives are the tragic consequences of a father's failure and we pray that this Father's Day will be a time of restoration and renewal to all families. In Your name, O Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 13, 1986.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable FRANK H. MURKOWSKI, a Senator from the State of Alaska, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. MURKOWSKI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority whip, the Senator from Wyoming, is recognized.

THE WORDS OF THE CHAPLAIN

Mr. SIMPSON. Mr. President, to begin, I always appreciate the words of the Senate Chaplain. He presents to us again today a lovely message about Father's Day. I will share a portion of that day with my own loving father this Sunday as he celebrates his 88th year of life this year. I am the beneficiary of his extraordinary teachings and love and affection—and discipline. I remember that, too. He was good at all of those. That is why I am a better person for it. He is a dear man.

SCHEDULE

Mr. SIMPSON. Well, we have business today: the two leaders with their standing order of 10 minutes each, special orders in favor of the following Senators for not to exceed 5 minutes each: MURKOWSKI, PROXMIRE, HUMPHREY, MATHIAS, SYMMS, CHAFEE, MELCHER, MCCONNELL, MATSUNAGA, and WALLOP; routine morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for not more than 2 minutes each, and following routine morning business the Senate will resume consideration of H.R. 3838, the tax reform bill. Pending is the Kasten-Inouye amendment on charitable contributions. A rollcall vote could occur as early as 10:45 a.m. on the Kasten-Inouye amendment. Votes can be anticipated throughout the day but not anticipated much beyond the hour of 4 p.m. because of various commitments on both sides of the aisle.

Then on Monday, it has been expressed and I reiterate, there will be no votes before 3:30 p.m. and no votes after 6 p.m. It is the intention of the majority leader to press on and, indeed, on Tuesday I would judge that all might anticipate a late session that day so that we can complete our work on the tax reform measure. As all of us as legislators observe progress, and we think progress is being made. I think Senator PACKWOOD and Senator LONG, as comanagers of the bill, are doing a superb and very patient job, and those in the amending process or thinking of the amending process are aware of their skills. It is kind of like wandering into a twin buzz saw blade when one comes into the fray with Senator PACKWOOD and Senator LONG.

So we have much to do on an important piece of legislation, and knowing our responsibilities we will meet that. I would reserve the remainder of the leader's time. I yield to my friend from West Virginia, the Democratic leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore (Mr. THURMOND). The able Democratic leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair, and I thank the distinguished acting Republican leader, Mr. SIMPSON.

FATHER'S DAY

Mr. BYRD. The Chaplain spoke of Father's Day. Scriptures tell us to "honor thy father and thy mother." Jesus, when he taught us to pray, taught us to say, "Our Father, which art in Heaven, hallowed be Thy name." The distinguished acting leader spoke of his own father, who was formerly a Member of this body. I remember Milward Simpson very well. He was a very congenial, amiable, likeable man, a good Senator. I have every reason to believe that he, indeed, has been a good father to his children. I am confident that he is exceedingly proud of his son, ALAN SIMPSON, who is a good Senator from the State of Wyoming and also a good leader and, likewise, a personable, affable man whom we like and respect very much.

SALT II REAGAN-SPEAKES DISCONNECT

Mr. BYRD. Mr. President, yesterday, White House Press Secretary Speakes made some clarifying remarks regarding what the President purportedly meant to say regarding SALT II restraints at the President's press conference the night before last. I did not think the President needed any clarification. What he said seemed to be very clear to me, and so the effect of the so-called clarification was confusion and confusing.

The President has said that "We will observe the constraints to the same extent that the Soviet Union does." And the clear upshot of all the President's statements, not only in his press conference the night before last but also in his May 27 statement, was that they were devoid of rhetoric such as

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

we have been hearing that "SALT II is dead," "SALT II is dead," it is "obsolete."

□ 0910

Mr. Speakes said yesterday, however, that the President's "decision of May 27 means that the SALT treaty limits no longer exist. SALT is dead. I mean, that's period."

I have expressed the hope repeatedly that the President's advisers will exercise the discipline and the responsibility not to try to lock him into concrete by appearing to put words in his mouth. I choose to take the President's words. I choose to take the President's words as he spoke them. He did not say SALT is "dead." If he meant to say that SALT is dead, he would have said SALT is dead.

So, for whom does Speakes speak? Does not the President speak for the President? Is Speakes speaking for Speakes? It was the President who was speaking, and it is clear that Speakes is not the President. I believe that the President speaks for the President.

So that should be enough for this administration's policy on SALT II restraints.

I renew my call of yesterday to Mr. Gorbachev to agree now to a summit meeting. That would set a serious process in motion to galvanize the arms control process. For our part, we need to promptly assess and respond to the latest Soviet proposal in Geneva, so that we can do all we can to move the process along.

The President's advisers do the President a disservice and the Nation a disservice if their goal is to derail the summit process and the arms control process and to reduce the flexibility of the President in these matters. Their rhetoric on killing the current restraints should end.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. BYRD. I am happy to yield to the distinguished majority whip.

Mr. CRANSTON. In view of the double speak out of the White House and the uncertainty as to what the position is on this crucial matter of arms control, does not our leader feel that it would be appropriate for Members of this body, on both sides of the aisle, to seek to exert some leadership in this matter by considering measures that would give some advice to the White House on the need to find a way to sustain the SALT ceilings?

If those ceilings are no longer observed, the evidence seems to be quite clear that it will be to the advantage of the Soviet Union, not the United States, if a new arms race is suddenly launched. They would be the one to capitalize on that opportunity, if they so choose, and they would have many more weapons than we that could be swiftly deployed.

Mr. BYRD. I think Members on both sides of the aisle in this party feel that the President's advisers should not attempt to impinge upon the President's flexibility to adjust his policies if, in the interests of our U.S. security, it appears that such adjustment should be forthcoming. I do not believe they should attempt to lock the President into concrete.

I think the President's statements are very clear. Insofar as I am concerned, I will continue to listen to the President. He has not said that SALT is dead.

I hope that all Members, on both sides of the aisle, will join together in expressing the view—I think it is held by the American people—that the administration should continue to strive to restrain itself from exceeding SALT II limits, at least for now; that the President not close the door to the possible constructive Soviet movement in this area; that nothing be said or done at this time that would appear to cast a cloud on the negotiations that are going forward at Geneva; that everything should be done to encourage the Soviets to stay within the constraints of the SALT II limits; that every effort be made and intensified to move the Soviets to the summit and to impress upon them that it is in their interests and in the interests of peace in the world, as well as in our own interests; that the babble of voices at the White House discontinue; that they, the Soviets, stop waffling with respect to a summit; that we have a summit; and that we all work together to develop a workable, mutual, verifiable arms control agreement.

I think that the President is little served and the interests of obtaining an arms sale agreement that is mutual, verifiable, effective, and workable are little served by the cacophony of voices that continue to confuse not only ourselves but also our allies and, indeed, play into the hands of the Soviets and their PR efforts.

Mr. CRANSTON. The Senator from West Virginia and I know that leading Senators on both sides of the aisle are engaged in discussions regarding seeking an appropriate way to send a message to the White House and to the Nation of our concern about adhering to the SALT limits as long as the Soviets do. So let us pursue that matter.

Mr. BYRD. I agree with the Senator.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 2 minutes remaining.

Mr. BYRD. Mr. President, I wish to speak on another subject, and it will require a little more than 2 minutes, so I will refrain until later in the day.

I thank the Chair.

SENATE LEADERSHIP RELATIONSHIP

Mr. SIMPSON. Mr. President, I thank the Senator from West Virginia, the Democratic leader, for his remarks about my father, whom he did know and did serve with, and for his extraordinary courtesy to me as I have tried to "learn the ropes" in this particular job.

When I came to the U.S. Senate, my father said, "If you require training in the rules of the Senate, go to Senator ROBERT BYRD." I have on more than one or two occasions done that. I will probably do that a great deal more. He is the leading Senator, in both parties, with regard to his knowledge of the rules of procedure, and he has been most kind and extraordinarily gracious in sharing that.

Then, of course, the Democratic whip and I have shifted positions a couple of times with regard to the position of chairman of the Veterans' Affairs Committee. I have enjoyed his counsel and the remarkable relationship I have come to enjoy with him as we carried out those duties, and now in our duties as whip for our respective parties.

□ 0920

He is an extraordinary person and it is my pleasure to find him such a pleasant person to work with.

I just had to make a comment as we "speak of Speakes," and we "misspeak," perhaps, as we speak of Speakes; with another play on words, from the pillars of salt, if I may, and the extraordinary thing is that when I came here we talked a lot about SALT.

If SALT is dead, it died right here in the U.S. Senate because it was never ratified by this body years ago. I would not want that to escape the attention of the American people.

If SALT is dead, and how dead is dead, and who misspoke who, it died right here; it could not get ratified by senior Senators of both parties of this Senate who refused to ratify it.

So in the midst of a need for a shred of clarity here and there as we dabble in our business, I think it is good to mention that. It might not be ratified today if it were presented and one of the things that might just happen in this debate when we get to SALT is someone will plop the SALT treaty right in the middle of this body and say "Here, ratify it." My hunch is it might not get ratified.

All of us deeply believe in arms control. This is not a partisan issue. Not a serious thoughtful American of either party is opposed to arms control. It is not a partisan issue. It was not a partisan issue under President Carter.

So to come back to this sitting President and killing off SALT, it never was ratified by the U.S. Senate.

I hope that we are able to divert that. I would hate to have a vote here where we would put it before the body and not deal with it again.

But if there is a chorus of conflicting voices it did not come in the last days. It came years ago, when I first came here 7½ years ago, when I saw leading Senators on both sides of the aisle unable to get the votes to ratify it.

And just as an aside and for no other purpose, we have quite a good track record. If you want to put an amendment or a resolution before us that includes the Soviet Union and its compliance I will be glad to support that, but not to have the United States comply with the unratified SALT treaty when the Soviet Union does not comply.

And then please remember that the SALT treaty—if ratified—would have expired in the year 1985 anyway. We seem to forget that too.

So, it is good exercise but not very productive.

We have a country to run, and there is a country on the other side, our chief adversary, that has violated almost every single human rights aspect of the Helsinki Final Act. They have violated virtually every arms agreement we have ever been in with them and that includes stockpiling and use in Afghanistan and Southeast Asia of chemical and toxic weapons in violation of the 1972 Biological Weapons Convention and the 1925 Geneva protocol, heavy encryption of SS-X-25 missile test telemetry in violation of SALT II, deployment of a large phased-array radar in central Siberia in violation of the 1972 Anti-Ballistic Missile Treaty, testing or deploying new missiles, the SS-X-25 and the SS-16, respectively, in violation of SALT II; and other violations.

So I just thought it might be appropriate to kind of "review the bidding" as we used to say when I was a bridge player back at the University of Wyoming Student Union in my student days.

I thank the Chair.

Mr. BYRD. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. Two minutes.

Mr. BYRD. Mr. President, I agree with the distinguished acting Republican leader that the Soviets have not complied with the SALT II accords in every respect.

I also agree that any sense-of-the-Senate resolution should also point to the Soviets as well and urge them to comply and if I have anything to do with the introduction of such a joint resolution, it will do that.

So I would hope we would not pass judgment for or against such a sense-of-the-Senate resolution until we all see the verbiage of it, and I would certainly want it to be bipartisan.

As to the ratification of treaties, Mr. President, if we want to really get into semantics and perhaps that is what we are dealing with, the Senate technically, does not ratify treaties. The Senate approves the resolution of ratification. The ratification itself actually takes place with the exchange of the instruments of ratification so the Senate does not ratify. The Senate only approves the resolution of ratification.

I have had some difficulties with the so-called SALT II treaty because the Senate never approved a resolution of ratification of that treaty. But at the same time there are constraints within those accords which if lived up to by both parties will certainly advance the cost of peace and lessen the likelihood of a catastrophic nuclear exchange.

As long as the Soviets live within the central systems and do not use their production lines which are geared up and ready to go, it seems to me that we are acting in the best interests of peace if we attempt to live within those limits as well.

But the President has indicated, I think, that the door is open, that if the Soviets will take constructive steps, they will be taken into account and the summit will going forward. I think that Mr. Gorbachev should be urged to move in that direction, should be urged to agree to a summit on a definite date, and we should all work together with the President and stop the attempt to interpret what he is saying in a way that confuses all. I can understand how he himself might even become confused.

Mr. President, I thank the Chair and I thank the Senators for their patience.

Mr. SIMPSON. Mr. President, I yield back the remainder of the leader's time to the leader.

I thank the Senator from West Virginia. I think we share a common view of a common critical need.

RECOGNITION OF SENATOR MURKOWSKI

The PRESIDENT pro tempore. The distinguished Senator from Alaska is recognized.

TRADE WITH JAPAN

Mr. MURKOWSKI. Mr. President, today I address my distinguished colleagues about a continuing and alarming development in our trade with Japan.

In my first statement earlier this week, Mr. President, on Tuesday, I spoke of our overall trade deficit with Japan, basically, the total amount that we own Japan for goods and services which we buy over and above our sales to them.

Basically, Mr. President, they are selling us more than we are selling them, and this amount has increased to $45.2 billion in 1985.

Most of this deficit is due to manufactured goods which we buy in the United States, automobiles, television sets, stereos, and so forth. But the alarming and rapidly growing portion of our overall trade deficit is due to an imbalance in another area and that is services, services such as banking, insurance, construction, transportation, and other professional services.

Thus, the United States used to lead the world in providing these kinds of services but over the past 3 years our $1.3 billion service trade surplus with Japan has turned into a deficit of $1.8 billion.

Since 1984, our service trade deficit with Japan has increased by an alarming percentage of 166 percent.

So, basically, Mr. President, Japan now sells us more service than we sell them.

Also, on Tuesday I outlined how the Japanese Government has presented various proposals to deal with the deficit in our trade. In the past 5 years, there have been six different so-called action plans to increase the amount of America's export to Japan. But the problems have grown worse and not better.

□ 0930

The purpose of my statement, Mr. President, is not to be unduly critical of Japan's trade policies, but to point out simply the inequity and the unfairness of Japan's not having its markets open to our manufactured products.

Our overall trade deficit with Japan, or the total amount we owe Japan for goods and services we buy over and above our sales to them, has increased to $45.2 billion in 1985. Most of this trade deficit is due to manufactured goods such as automobiles, televisions, or stereos—but an alarming and growing portion of our overall trade deficit is due to an imbalance in services such as banking, insurance, construction, transportation, and other professional services. We used to lead the world in providing these kinds of services. But over the past 3 years, our $1.3 billion service trade surplus with Japan has become a deficit of $1.8 billion. Since 1984, our services trade deficit with Japan has increased 166 percent.

On Tuesday, I also outlined how the Japanese Government has presented various proposals to deal with the deficit in our trade. In the past 5 years there have been six different so-called "action plans" to increase the amount of American exports to Japan. But the problems have grown worse, not better.

Today, I want to share with my colleagues some concrete information on our services trade situation with Japan. This information was revealed

in a hearing I conducted last Thursday in my Foreign Relations Subcommittee on East Asia and Pacific Affairs. The first two witnesses—H.P. Goldfield, Assistant Secretary of Trade Development in Commerce, and Raymond Hodge of the construction and engineering firm of Tippetts, Abbett, McCarthy, and Stratton—gave shocking testimony on our inability to get access to the Japanese market in construction services.

In July 1985, the Japanese Government announced an "action program for improved market access" that promised to open up public projects for bidding by foreign firms. Simultaneously, Japan has initiated design and construction studies for a new international airport on a man-made island near Osaka. Called the Kansai International Airport project, this construction is estimated to provide $8 billion in business for construction and engineering companies.

The firm coordinating the project, Kansai International Airport Co., is two-thirds owned by the Japanese Ministry of Transport. Also, the Japanese National Government is providing direct funding, low cost loans, and has loaned government employees to the project. For all intents and purposes, this is a government-sponsored project, and American firms expected to be able to participate in it.

However, we have learned that the Japanese are balking at foreign participation, and will not hold an international open bid and tender. Japanese construction firms have vigorously opposed foreign entry to the market.

The Japan Civil Contractors Association and other industry groups have publicly opposed foreign participation. They have stated that their domestic industry is in a depressed condition, and that foreign firms are unfamiliar with Japanese business practices and policies. In response to United States protest about closed bidding procedures, Japanese Ministry officials insist they do not control the project and that it is not subject to "action plans."

But the real reason was stated by a prominent official of the Nakasone administration. He said: "If we give way in this instance, the Americans will want free and open international bidding and tendering on the planned construction of a bridge and tunnel across Tokyo Bay, a $12-billion project. Earlier this week the Wall Street Journal reported that the Kansai Airport Corp. had ruled out foreign participation, saying it did not want to delay construction by allowing foreign bidding on the contract.

Over the past 20 years, despite substantial efforts to crack the Japanese construction market, only one construction project has involved participation of an American firm (Pacific Architects and Engineers). And this project took place because the World Bank insisted on open bidding before it approved financing.

In contrast to this lack of access to the Japanese market, the United States market is open to Japanese construction and engineering firms. Last year, the United States was the largest source of overseas construction for Japanese companies. Witnesses at the hearing said 18 Japanese firms did $1.7 billion worth of construction business in the United States, and United States business was one-eighth of Japan's total international business in this sector.

Let me draw attention to activities of some aggressive Japanese firms, starting with Kumagai Gumi Co., Ltd. with the help of its wholly-owned United States subsidiary, Kuman USA, this firm recently picked up contracts worth $1.2 billion for office and condo development in Manhattan. It also gained a $100-million joint-venture project with the city of Belmont, CA for a mixed-use office and recreational complex. Company president Tachiro Kumagai, I would gently point out to my distinguished colleagues, is also the chairman of the Japanese Civil Construction Industry Association. It was he who told a news conference he was opposed to foreign participation in the Kansai Airport project because it would "cause confusion."

Other examples were mentioned at the hearing. Kajima Corp., number 68 in the list of top 400 contractors in the United States, received a contract for a $30-million hydro plant in Kentucky and a contract for the U.S. Embassy building in Cairo. They did $314.5 million in U.S. business last year.

Ohbayashi Gumi Corp. has a joint venture contract for the Arizona Department of Transportation for a $50-million tunnel. Japanese firms recently have won contracts for construction of a Mazda plant in Michigan and a Toyota plant in Kentucky.

These facts speak for themselves. The United States market in construction is open for Japanese firms. Japanese, however, see their market as their exclusive domain. As our witnesses said repeatedly, "that ain't fair."

The hearing also considered the Japanese banking, brokerage, and insurance services, where there are similar patterns. Our markets are open to Japanese banks, insurance firms, and securities firms. For example, Nomura and Diawa Securities, two of Japan's largest securities firms, have become primary dealers in United States Government securities. American firms, on the other hand, pay exorbitant fees to get into the Tokyo stock market and are limited by regulations from participation in the primary Japanese securities market.

The Japanese banking industry has undergone some deregulation in recent years, but United States bank operations still face more limitations than Japanese banks face in the United States. As a result, United States banks have only 3 percent of the banking assets in Japan. Japanese banks have experienced phenomenal growth in recent years and now enjoy 7 percent of commercial and industrial loans in the United States.

American insurance firms face long waiting periods for application approval and other problems of "transparency" in the Japanese market. Regulatory authorities are reluctant to license new insurance lines. As a result, the 42 foreign insurance companies doing business in Japan have only 3 percent of this lucrative market (the world's second largest). But there are no deterrents at all to entry of foreign insurers to the U.S. market.

What witnesses had to say at the United States-Japan services trade hearing pointed to deep-seated problems of market access. I have commended Prime Minister Nakasone on countless occasions for his attempts to address problems of unfairness in United States-Japan trade.

The hearing, however, showed that the Prime Minister is not getting the cooperation and assistance of his own bureaucracy. And he faces strong opposition from the Japanese private sector.

We have not been successful in dealing with this problem because we have failed thus far to take direct action. I have asked Secretary Shultz to communicate my concerns directly to the Japanese Government, and ask that American firms be permitted to bid on the Kansai Airport construction project. I have requested his response by June 26.

I ask unanimous consent that my letter to Secretary Shultz be entered in the RECORD.

Thank you, Mr. President.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 10, 1986.

Hon. GEORGE P. SHULTZ,
Secretary of State, Washington, DC.

DEAR SECRETARY SHULTZ: This last Thursday, I chaired a hearing of the Senate Subcommittee on East Asia and Pacific Affairs, concerning U.S.-Japan Services trade.

I was deeply alarmed at testimony concerning construction of the new Kansai airport in Japan. This major project, which will involve approximately $8 billion in new contracts, has not been opened for competitive bidding by American companies. The firm coordinating the project is under majority ownership of the Japanese Ministry of Transport, and the national government is providing direct funding, low cost loans, and key employees for the project. Yet in response to U.S. concerns regarding closed bidding procedures, Ministry officials insist they do not control the project and it is not

subject to the 1985 action plan (which pledged to open up public works projects to foreign firms).

In recent years, the U.S. has become the largest source of overseas construction for Japanese companies. Meanwhile, our firms—which are globally competitive in major project construction—are unable to gain access to the Japanese market on construction projects. I ask that you make representation of this glaring inequity to the Japanese government.

In addition, I request that the State Department communicate with Japan to determine whether U.S. firms will specifically be given the opportunity to bid on the Kansai airport project. Because the likely Japanese response will be general assurances, I further ask that Japan explain why the Kansai project has been excluded from the 1985 Action Plan, and if this exclusion means U.S. firms will not have a practical chance to compete.

Because time is of the essence, I respectfully ask that the Department request a response from Japan by June 26.

With best wishes and warmest personal regards.

Sincerely,

FRANK H. MURKOWSKI,
U.S. Senator.

Mr. President, I intend next week to indicate in a special order corrective action that must be taken in order to encourage that Japan open its markets in the same manner in which the United States has opened its markets to Japan.

I thank the Chair.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDENT pro tempore. The distinguished Senator from Wisconsin [Mr. PROXMIRE] is recognized for a period not to exceed 5 minutes.

THE FIVE WAY NUCLEAR ARMS RACE

Mr. PROXMIRE. Mr. President, for many years most Americans have viewed the nuclear arms problem as 90 percent concerned with the superpower nuclear competition of the United States and the Soviet Union and about 10 percent with nuclear proliferation. Now there is a new element. Somehow we have ignored the fact that there are now and have been for more than 20 years not just two full fledged nuclear powers in the world. There are five. They are the United States, the U.S.S.R., the United Kingdom, France, and the People's Republic of China. All of us know this. But few of us pay any attention to the nuclear weapons power of the United Kingdom, France, and China.

Why should we? After all, do not the nuclear arsenals of the United States and the Soviet Union each dwarf the nuclear armed power of the other three members of the nuclear club? Are we not talking about midgets and giants here? Does not the United States and the Soviet Union each bestride their own half of the world with 10,000 strategic nuclear warheads each? Does not the arsenal of each of the other three nuclear powers amount to a few hundred strategic nuclear weapons? Is not this just kid stuff? Are we and the Soviets not the only big boys who count?

The answer is that the situation is changing and it is changing very swiftly. The kids are rapidly becoming big boys and very tough big boys at that. The egos of the superpowers and the egos of the superpower leadership have been served by this assumption that we and the Soviets have been, are now, and will continue to be the only significant nuclear game in town. But we are not. First, the few hundred strategic nuclear weapons possessed by the British and the few hundred deployed by the French could each separately destroy the Soviet Union as an organized society, and even if there were no retaliation, such an attack could possibly trigger a nuclear winter that would ravage the Earth.

Second, both the United Kingdom and France are separately planning a striking buildup of their nuclear forces. Within 5 years each of these two countries will have deployed more than 1,000 strategic nuclear warheads. They will be deployed in a highly survivable mode in submarines and bombers. Within 15 years—before the end of the century—the United Kingdom and France each will have more than 2,000 strategic nuclear warheads. Oh, sure these arsenals will each be far less than the nuclear arsenals of the U.S.S.R. and United States but the United Kingdom and France will be building over the next few years independent nuclear striking forces that could greatly increase the threat to the U.S.S.R., make NATO far less coherent and less reliable. That is not all. The increased nuclearization of United Kingdom and French military power is a response to a simple fact of military economy. Lethal pound for lethal pound nuclear power constitutes an irresistible bargain. France and the United Kingdom can save billions in conventional tanks, and planes and warships by building their own awesome nuclear deterrent at a far lower cost. They can also reduce their dependence on NATO in the process.

And is all this likely to be lost on China? China has become the fastest growing economic entity in the world. It is already a full fledged nuclear power. It is rapidly developing the economic strength to become a super nuclear power.

All this may appear to be very bad news for the Soviet Union which may be on the verge of facing from hostile major nuclear powers in the near future. But is it such good news for the United States? Or for mankind throughout the world? Will not the world be less safe with a finger on the big nuclear button in five countries instead of in two? Is not the prospect of a nuclear war that could finish us all magnified when any one of five national leaders can start the end of the world instead of two? And why should this remarkably cheap and immensely effective military power stop at five? With the onmoving technological improvement in nuclear weapons and the swift reduction in cost and especially the example of England and France, a dozen or more nations can afford and may soon choose major nuclear arsenals as the way to ensure their sovereign independence at bargain prices. So the fingers on the nuclear trigger multiplies.

HOW BRING BACK BRIBERY BILL ENCOURAGES THE KNOWING WINK AND BRIBERY

Mr. PROXMIRE. Mr. President, this is the third in my series of speeches against S. 430, the bring back bribery bill. Today I will discuss still another specific provision of that proposed bill that would gut the Foreign Corrupt Practices Act. Since 1977 when the Foreign Corrupt Practices Act became law what has happened to the bribery scandals that rocked our country in the early 1970's? They stopped. They stopped cold. The Foreign Corrupt Practices Act did its work.

What had become an epidemic of bribery by American corporations abroad ended. By epidemic I mean exactly that as shown by the results of the investigation by the SEC that revealed that some 450 American corporations had made more than $300 million in questionable payments to foreign officials.

Today I will discuss still another change in the bring back bribery bill. S. 430 would delete from the present law the provision that makes a corporate official responsible for a payment by an agent of his corporation if he had "reason to know" such payment constituted a bribe. S. 430 would drop the "reason to know" language and substitute therefore the following: "it shall be unlawful . . . corruptly to direct or authorize, expressly or by a course of conduct . . . a payment, gift, offer . . . to a foreign official for any of the purposes set forth."

Mr. President if ever there were gutting language, this is it. Why is it gutting language? Consider: Under the present Foreign Corrupt Practices Act a chief executive officer of a corporation is made responsible for any illegal payments by his foreign agent. So the CEO must set up safeguards to assure himself that payments will be legal and specifically will not include moneys that may become bribes. If the corporate money is paid in the form of a bribe, and if the CEO knew or had reason to know it was a bribe

71-059 O-87-16 (Pt. 10)

the CEO is responsible. He can be prosecuted. He can be fined. He can be jailed. He can be ruined. Is that bad? No, this is precisely why the act has worked. This is why corporate bribery that so disgraced our country and our friends and allies abroad has ceased since the Foreign Corrupt Practices Act became law in 1977.

What happens if the Congress enacts S. 430 with "reason to know" deleted and in its place Congress simply inserts the requirement that American corporation executives can only be prosecuted if they "direct or authorize expressly or by a course of conduct a payment to a foreign official." The answer was given by Harold Williams who formerly chaired the SEC in testimony before the Senate Banking Committee in 1981. Williams testified about a similar bill at that time. He said:

I am concerned with the pending bill's deletion of reason to know standard from the Act. If enacted with this deletion, it would be possible for management to adopt the "shut eyed" approach whereby liability would be avoided by remaining oblivious to the actual facts and circumstances underlying the subject transactions. Further it would encourage a form of managerial irresponsibility that should not be the underlying effect of federal legislation and would give rise to an environment of do what you need to do, just don't tell me.

Williams was not alone. Here is how Ted Sorenson, former assistant to President Kennedy, put it:

Surely that invites a wide-open return to the knowing wink and the pregnant nod by not including those who knowingly aid or abet such payments.

Now, Mr. President, let us not kid ourselves. Does anyone really believe that if we enact S. 430 we will not increase the temptation for corporation officials to go back to the old bribery ways? The temptations are immense. When Lockheed bribed the Prime Minister of Japan with a $1.6 million payment, Lockheed won a $420 million contract and made a profit of tens of millions of dollars on the deal. This was before the Foreign Corrupt Practices Act was on the books. It is true that Lockheed did run afoul of another law that cost them an $847,000 fine. But none of Lockheed's executives suffered any penalty whatsoever. That bribe turned out to be a highly profitable deal for Lockheed. Subtract the cost of the bribe and the fine and Lockheed still made a bundle net. If we pass the bring back bribery bill, S. 430, and in the process delete "reason to know" and substitute the requirement that prosecutors have to prove that an official personally directed the bribe, or expressly authorized the bribe, or engaged in a course of conduct that showed his corruption, corporation executives that want to make foreign sales can and will relax. The pregnant nod, the knowing wink, the old shut-eye, the instructions to "do what you need to do, just don't tell me" will be back in vogue. The Foreign Corrupt Practices Act will be gutted, ruined, a dead letter. Do you see why we call S. 430, the bring back bribery bill?

THE MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, the myth of the day is that Congress no longer has to worry about automatic budget cuts this fall. This myth will soon come to haunt us.

Why this optimism when Congress was so afraid of the defict only 6 months ago that it passed Gramm-Rudman in an act of desperation? First, both the Office of Management and Budget [OMB] and the Congressional Budget Office [CBO] made the task look easy by assuming healthy economic growth. Second, both Houses of Congress passed budgets meeting the Gramm-Rudman targets without the usual fuss. Finally, many people are hoping the Supreme Court will strike down the "automatic cuts" part of the law.

This Senator believes that this optimisim will soon fade and here is why. The economy is performing sluggishly, at best. Even if we manage to avoid another recession—no certainty—we are unlikely to experience economic growth as vigorous as assumed in our budgets. This means that the deficit will increase. The key question now is when the CBO will revise their forecast to reflect this reality.

Next, look at the budgets passed by each House of Congress. Each contains some gimmicks. Compromise has been hard to find. The longer this impasse lasts, the more likely conferees will be to resort to even more gimmicks as a way of resolving the differences. The recently passed supplemental appropriations bill is a textbook example of how to use gimmicks to avoid problems with Gramm-Rudman. The difficulty with this approach is that it may work for 1 year but at the cost of putting us deeper in the hole thereafter.

Remember last fall when the big argument was over whether Gramm-Rudman would "bite" in 1986. Congress settled this dispute by agreeing that it would and set a deficit ceiling of $172 billion. Some ceiling! The 1986 deficit will be closer to $220 billion, about what was projected before Gramm-Rudman passed. The 1987 budget is well along this path.

Finally, the Supreme Court may well strike down part of the Gramm-Rudman law. But that would merely throw the issue right back in our laps. We would then be faced with the prospect of passing a sequester order with an election less than 2 months away. That prospect is not one which encourages optimism about our ability to reduce the deficit.

Mr. President, Congress is now making the age-old mistake of counting our chickens before they hatch. Unfortunately, that is no myth.

Mr. President, I yield the floor.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR McCONNELL

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kentucky [Mr. McCONNELL] is recognized for a period not to exceed 5 minutes.

S. 2553—CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENT TO OFFER TRAINING IN ADVANCED MARKETING TECHNIQUES

Mr. McCONNELL. Mr. President, I rise today to introduce legislation which will require farmers who receive Farmers Home Administration operating or farm ownership loans or loan guarantees to complete training in advanced marketing techniques.

By manner of introduction, I would like to bring to the attention of my colleagues two articles which recently appeared in the June 9 edition of the Lexington Herald Leader.

The first is printed under the heading "Value of Kentucky Farmland at Lowest Level Since 1979." The article describes the bleak landscape of American agriculture: Average farmland values dropping 12 percent in the last 10 months and 37 States showing declining farmland values over the past year. These are very visible symptoms of the crisis our Nation's farmers now face. But I do not need to remind my colleagues of this—we see it every day on the television; we read it in the newspaper; we hear of the tragedies from our constituents. I ask unanimous consent that this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VALUE OF KENTUCKY FARMLAND AT LOWEST LEVEL SINCE 1979

(By Roger Nesbitt)

The nation's farm recession is continuing to take a toll on farmers' greatest asset: the value of their land.

The average value of an acre of American farmland dropped by 12 percent—to $596—during a 10-month period that ended in February. That represents a 28 percent decline

from the record high of $823 that was recorded in April 1982, according to a recent report from the U.S. Department of Agriculture.

Kentucky's farmland is valued at its lowest level since 1979. A 4 percent decline reported in the department's latest survey puts the Kentucky average at $870 an acre—a 17 percent drop from the record $1,058 in 1982.

Kentucky fares well in comparison with the five-year declines reported in the Midwest gain belt: Iowa, 70 percent; Nebraska, 64; Indiana, 57; Illinois, 55; Ohio, 53.

But Kentucky's average is misleading because it is propped up by the high values of horse-farm land in Central Kentucky. Throughout the Western Kentucky grain belt, farmland is selling for about half of what it did five years ago. And other areas of the state are not far behind, according to agriculture economists.

"You have a unique situation in Kentucky," said William Heneberry, a USDA economist who compiled the report based on a national survey of farmers, real estate brokers and lending institution. "Kentucky's values held up better than most states because the areas of Central Kentucky are holding up relatively well.

"But we have found that the western part of your state is just about on par with what's going on throughout the Midwest. If you throw out the horse farms, Kentucky probably would be more in line with states like Missouri and North Carolina, which had 8 and 9 percent drops."

Nationally, 37 states registered declines in the latest survey, and 21 had more than a 10 percent drop. Increases were recorded in 11 states, including Virginia (5 percent), Tennessee (1 percent) and all of the New England states.

The latest value figures range from a high of $3,913 per acre in New Jersey to a low of $134 in New Mexico.

Land values began to skyrocket in the mid-1970s with the beginning of a seven-year period popularly known as "the golden years" for agriculture. High market prices and decreased production costs brought farmers big profits, and as a result, their land was worth more.

Many farmers were seduced by the high profits and favorable lending programs during that period. They expanded operations by buying land at the inflated prices. Kentucky was part of that trend as the average value of an acre of the state's farmland soared from $427 in 1975 to a peak of $1,058 in 1982.

But since then, land values have plunged under the weight of depressed commodity markets and high interest rates. Today, a good number of farmers are saddled with land worth considerably less than what they gave for it.

Some agriculture economists are predicting that the situation will improve this year as farmers benefit from lower interest rates, reduced production costs and new government farm programs geared toward stabilizing market prices.

Donald W. Shurley, an economist for the University of Kentucky College of Agriculture's extension service, said he didn't expect any improvement in Kentucky this year. But he added that "there are a lot of reasons to think it will stabilize in the next few years."

□ 0940

Mr. McCONNELL. We have reason to believe, Mr. President, that these problems are symptoms of a long-term, fundamental change in American agriculture. A recent report by the Office of Technology Assessment, "Technology, Public Policy, and the Changing Structure of American Agriculture," indicates that by the year 2000 there will be 1 million fewer farmers than there are today. There might be those who dispute this figure, but nevertheless, I believe that it is indicative of a basic reorientation of the industry. Furthermore, agricultural economists from a broad philosophical spectrum of land grant universities all agree that 10–15 percent of those persons currently engaged in farming will not be doing so in 5 years. The implication is clear: we will be dealing with the agricultural transition for years to come.

The second Herald Leader headline provides an interesting contrast to the first. The article entitled "Vegetable Co-ops Feed Farmer's Hopes" describes one small group of farmers' effort to deal with economic hardship. A few farmers in Kentucky have taken innovative actions, involving a degree of risk, to identify and exploit non-traditional markets for agricultural produce. These kinds of projects tend to demonstrate the potential for success even during the depths of a financial crisis. I ask unanimous consent that this article be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VEGETABLE CO-OPS FEED FARMERS' HOPES

(By Roger Nesbitt)

A small number of Kentucky farmers have set out to produce about 10 million examples of how to offset sagging income from tobacco and other traditional crops.

That's the number of fresh vegetables that could be sold this summer through four farmer cooperatives trying to set a new course for Kentucky agriculture.

About 800 members of the cooperatives in Lexington, Beattyville, Monticello and Hopkinsville have planted hundreds of acres of bell peppers, cucumbers, cabbage, squash and tomatoes. And when the harvest of some of these crops begins later this month, farmers and co-op leaders hope to have proof—high yields, high-quality crops and profitable sales receipts show that fresh vegetable production should be a growing enterprise in Kentucky.

"We have these co-ops providing that missing link between the growers and customers—now we need to establish a good reputation for Kentucky products," said Larry Swetnam, manager of Kentucky Agricultural Marketing, the Lexington-based co-op.

"We need a good supply of quality produce this year. That would give us a good foundation for future growth."

Kentucky vegetable sales amount to about $19 million a year, compared with $500 million for burley tobacco, the leading cash crop.

While no one is suggesting that vegetables can supplant burley, Swetnam and others said fresh produce had the potential to be a $200 million business in the state.

"It's not the salvation of agriculture here," Swetnam, said. "As great as the potential is, we know it's not for everyone.

"But I know that if we can provide them with the market and the mechanisms to sell, many of our farmers can do the job. They can establish a market and profit from it."

The co-ops in Lexington and Beattyville are beginning their second year with high hopes of improvement from 1985, when they lost a combined $60,000 because most of their crops were ravaged by disease and weather.

Both co-ops are making vast improvements to their processing and packing plants. And their members have increased the amount of planted acreage this year.

Pennyrile Agricultural Marketing in Pembroke (near Hopkinsville), the state's new co-ops has 65 farmers raising 150 acres of peppers, squash and cucumbers. While it seeks funding for a packing plant, the Western Kentucky co-op will ship its crops to Lexington for processing.

Cumberland Farm Products, Kentucky's only established co-op, is building a $1.1 million plant in Russell Springs to go with its large facility in Monticello. Membership has increased by 10 percent this year, to 551 farmers in five counties who are growing about 850 acres of peppers, cabbage and tomatoes, according to manager Larry Snell.

Co-op leaders said many members were young, progressive farmers seeking to lessen their dependence on burley tobacco, cattle and grain crops—the traditional staples of Kentucky farms.

Andy Graves of Fayette County is one such farmer.

Graves, 28, said he was trying bell peppers because he had been "struggling" to keep his 1,500-acre farm by raising burley and beef. In four years his burley production quota has been cut from 50 acres to 30 acres as part of changes in the troubled federal tobacco price support program.

Meanwhile, the value of his 500 head of cattle has declined during the nation's prolonged farm recession, he said.

Graves joined the Lexington co-op last year and says he made "a little money" on the sale of three acres of peppers.

This year he has planted 20 acres—about 200,000 plants—and he's hoping to expand to 70 acres of his land that can be readily irrigated.

He doesn't intend to stop growing burley, he said, and doesn't expect to get rich off vegetables. But he thinks that 10 years from now, vegetables will be as important to his farm as anything else.

"I'm anxious to do whatever I can to cover all corners for the years ahead," he said.

"Farming is at a lull right now, and there's going to be rapid changes in the next 10 years. We're receiving less for these traditional commodities. But modern America is eating more vegetables. It makes sense to move to something that the market wants."

A member of the Lexington co-op's board of directors, Graves is bullish on the concept of uniting producers in order to meet the demands of large markets.

"There aren't many farmers who have the resources to establish a retail or wholesale market for a large-scale enterprise. The co-op does that for them," he said.

Marlene McComas of Owen County, another member of the co-op's board, said the lack of a viable market kept her out of the business for several years.

"I had been trying to get in with processors for years, but they all had long waiting

lists. And I didn't have time to stand around and sell out of the back of a truck," she said.

Dwight and Marlene McComas joined the co-op last year and made a small profit on 1½ acres of peppers and a half-acre of cucumbers. They doubled their plantings this year, Mrs. McComas said.

"We're going to stick with this for four or five years to see how well it works, and then hopefully we'll expand in a big way," she said.

Swetnam, an agricultural engineer on loan to the Lexington co-op from the University of Kentucky, is organizing a federation to coordinate the efforts of the Lexington, Beattyville and Hopkinsville groups.

The three co-ops have an arrangement to market their vegetables through a Georgia company that sells the produce when hot weather delays production in the South.

The Lexington and Beattyville co-ops had that arrangement last year, but sales were stymied by the low yields brought about by a winterlike spring and a bacterial disease.

The Lexington co-op harvested only 30 percent of its projected crop of bell peppers and lost about $20,000. As a result, only half of last year's 93 members have signed up for this year, Swetnam said.

However, a surge of newcomers pushed membership to 108 farmers in 30 counties. They have planted 300 acres of bell peppers, 35 acres of cucumbers and smaller portions of cabbage, squash, eggplant, zucchini and other types of peppers.

That's three times the acreage of last year, and with a good growing season, the co-op could sell up to 160,000 boxes of produce worth as much as $1.5 million, according to Swetnam.

The co-op has state and local bank funding for a $100,000 project for cold storage and other improvements to its 25,000-square-foot plant at the Parker Tobacco Company Warehouse on South Broadway in Lexington.

The plant includes a processing line where the produce is graded, washed, waxed and boxed; two coolers; and a loading dock.

Kentucky Mountain Farms in Beattyville also was undeterred by a disastrous first year: The co-op is making $120,000 worth of improvements to its plant north of Beattyville.

"We're going to have a state-of-the-art plant that can handle up to 600 acres of produce a season," said co-op manager Jim Worstell.

Last year the co-op finished $40,000 in the red because of the loss of 82 percent of the peppers and 75 percent of the cucumbers it had expected to sell.

The co-op has retained its 211 members, all of whom are tobacco farmers. But only 97 are growing vegetables this year. Those farmers, who come from 11 counties, have planted 175 acres of peppers, 75 acres of cucumbers and five acres of green beans, Worstell said.

With some encouraging results this year, Worstell expects production to double in the years ahead.

"A lot of our farmers who didn't do well last year have decided to sit out this year to see how it goes. I think we can get a lot of them back," he said.

Unlike the other co-ops, Cumberland Farm Products does not market its crops through a broker.

"We initiate our own marketing program," Snell said. "We go out and meet buyers; we're selling to several major grocery chains and to divisional warehouses."

Comberland Farm Products has prospered because it has reached markets to the north, which have a shortage of fresh produce at the time when Kentucky's crops are harvested.

The best think going for Kentucky growers, Worstell said, is the different harvest periods for the competitors to the north and south.

"There is definitely a market window here. We can go north in the summer to meet the lack of supplies in places like Chicago and Detroit. We can go south with our peppers and cucumbers in September and October, when there's always a high price down there."

The biggest advantage of a co-op, Swetnam said, is that it enables growers to compete in the national market.

"We've reached markets in Dallas, St. Louis, Pittsburgh, Chicago, Philadelphia and Atlanta because we have the crops at times when they have had difficulties getting them," Swetnam said.

Graves, who has bought an irrigation system that will allow him to expand his pepper production said he was working to reach the point where peppers are nearly as profitable as burley.

"I've figured that I can get $1,000 an acre. That's not going to make me rich, but it would sure help keep me on this farm," he said.

Mr. McCONNELL. Mr. President, I think that the initiatives of these innovative farmers serves to illustrate an important need, a need which the legislation I am proposing today will address. In today's agriculture, the challenge for the American farmer is not just to produce effectively and efficiently, but to remain profitable under very difficult economic circumstances. To survive, the farmer must weigh more considerations than merely those dealing with production. Accordingly, more attention must be focused on the business aspect of production agriculture. Management and marketing decisions have become critically important to any farm operation and these decisions will ultimately determine the success or failure of the operation.

Moreover, as these decisions have become more crucial, they have become more complex. Marketing, for example, need no longer be a matter of taking grain to an elevator after harvest, or taking cattle to the stockyard. The modern farmer will consider such alternatives as hedging through the futures market, utilizing options to lock in a price for his commodity, electronic marketing, cooperative marketing, or direct sales to consumers. Farmers have at their disposal the most up-to-date price and market information and sophisticated computer software that has been developed to assist farmers making marketing decisions.

However, not all farmers utilize these many opportunities which could give them an edge on the market and improve the viability of their operation. Given the multitudes of decisions a farmer must make and information that must be assimilated, it is no wonder that the typical American farmer is unaware of, or does not entirely understand, recent developments in marketing technologies. This is the problem my bill seeks to address. Through the resources of the USDA, primarily the Cooperative Extension Service, training in utilization of the latest marketing tools and technologies available would be made a requirement for receiving a loan or loan guarantee from the Farmers Home Administration.

What I am proposing here is nothing new or revolutionary. Provisions of the 1985 Food Security Act and major steering committees of the Extension Service have recognized marketing as an important component of profitability. This legislation will serve to reinforce the fine efforts of the Extension Service and to focus them into a comprehensive educational initiative. I would point out that, since my proposal mirrors the Extension Service's desire to commit more resources to promoting improved profitability, the training I propose can be provided at minimal cost to the taxpayer.

Why require FmHA borrowers to receive this training? Examining FmHA's loan activities over the past decade indicates a marked trend: Rapidly growing dollar commitments and growing loan delinquencies. Mr. President, I ask unanimous consent that a table which more fully describes this situation be included in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

WHAT ARE FmHA'S FOLIO CHARACTERISTICS FOR MAJOR FARMER PROGRAMS?

[Dollar amounts in millions]

	Number of borrowers	Number of loans	Outstanding principal
As of June 30, 1985:			
Farm ownership	125,113	162,507	$7,360.1
Operating loans	123,639	207,347	5,969.9
Emergency disaster	122,481	288,889	9,917.6
Economic disaster	54,199	79,841	4,171.4
Soil and water	16,415	18,635	299.4
Total	441,847	757,219	27,718.4

Source: FmHA briefing, "An Overview of Farmer Program Debt, Delinquencies, and Loan Losses," p. 29.

[Dollar amounts in millions]

1985 loan activity	Number of loans	Amount
Operating loans	30,821	$1,932.5
Ownership loans	5,270	533.0

Source: FmHA briefing, "Debt Restructuring Activities During the 1984–85 Farm Credit Crisis," p. 75.

FmHA MAJOR FARMERS PROGRAM DELINQUENCIES AS OF JUNE 30, 1986

	Delinquent	Delinquent over 3 years	Percent of over 3 years
Farm ownership	$390.8	$224.7	57.5
Operating loans	980.0	546.8	55.8
Emergency disaster	3,915.6	3,217.4	82.2
Economic emergency	1,061.3	784.9	74.0
Soil and water	37.5	26.0	69.3
Total	6,385.2	4,799.8	75.2

Source: FmHA briefing, "An Overview of Farmer Program Debt, Delinquencies, and Loan Losses," p. 62.

TOTAL FmHA DEBT, DECEMBER 31, 1975–84

Year	FmHA debt (billions)	Year	FmHA debt (billions)
1975	$5.1	1980	$19.5
1976	5.5	1981	23.2
1977	7.1	1982	23.8
1978	9.9	1983	24.1
1979	16.1	1984	25.7

Source: FmHA briefing, "An Overview of Farmer Program Debt, Delinquencies, and Loan Losses," p. 15.

Mr. McCONNELL. This trend translates into a growing expense to the taxpayer. I do not believe that it is unreasonable to expect FmHA borrowers to take actions to display that their money is being well invested. In addition, the OTA report quoted above emphasizes the potential for FmHA to fulfill a role, through cooperation with various Federal agencies, in providing training and transfer of technologies in association with its loan making activities. Many of its clients, the report notes, lack the physical resources to compete with larger scale operations, but they do have an abundance of labor. This labor can be enhanced and developed through the kind of training I have been discussing.

It is not my objective, Mr. President, to underestimate the abilities or resourcefulness of FmHA borrowers. Many former borrowers have taken advantage of management and production methods and marketing tools to substantially improve their operations and "graduate" from FmHA borrowing programs. I would assume that the Department of Agriculture officials involved in implementing this program would establish some method by which a farmer could certify his familiarity with the subject matter involved and thereby waive the training requirement.

Regardless, I strongly believe that those farmers who are among the hardest hit by the current agricultural crisis would derive great benefit from training in marketing techniques. This important training will provide FmHA borrowers with an opportunity to take action to improve the financial stability of their operations by using the market rather than letting it use them. It has been widely reported that two-thirds of all farm commodities are sold at the lowest one-third of the market. This bill begins to address this problem.

And I do not envision this program restricted solely to FmHA borrowers. It could be open to anyone interested on a voluntary basis—bankers, agribusinessmen, or other farmers—so that they too can become more aware of the latest marketing technologies.

Mr. President, I realize that this sort of training is no panacea for the many ills which plague agriculture, but it will provide an opportunity for the most financially vulnerable producers to improve their chances at surviving in a competitive industry. If we are to provide any lasting assistance to the farming community we must look to the future, and help them to effectively deal with the massive transition ahead.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADVANCED MARKETING TRAINING.

(a) IN GENERAL.—The Consolidated Farm and Rural Development Act is amended by adding after section 352 (7 U.S.C. 2000) the following new section:

"SEC. 353. (a) In the case of applicants for, and borrowers of, real estate and operating loans insured, made to be sold and insured, or guaranteed in accordance with subtitles A and B, respectively, the Secretary shall offer training in advanced marketing techniques for commodities, livestock, and aquaculture produced by such applicants and borrowers, including (where approriate as determined by the Secretary) training in the use of futures and options markets.

"(b) To be eligible to obtain a real estate or operating loan, or guarantee for such loan, under subtitle A or B, respectively, an individual must complete training in advanced marketing techniques referred to in subsection (a).".

(b) EFFECTIVE DATES.—

(1) OFFERED TRAINING.—Section 353(a) of the Consolidated Farm and Rural Development Act (as added by subsection (a)) shall apply to real estate and operating loans and loan guarantees outstanding on the date of enactment of this Act and loans and loan guarantees made on or after such date.

(2) ELIGIBILITY FOR LOANS OR LOAN GUARANTEES.—Section 353(b) of the Consolidated Farm and Rural Development Act (as added by subsection (a)) shall apply to real estate and operating loans and loan guarantees made on or after the date of enactment of this Act.

RECOGNITION OF SENATOR MELCHER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Montana [Mr. MELCHER] is recognized for not to exceed 5 minutes.

AGRICULTURAL EXPORTS

Mr. MELCHER. Mr. President, we have all heard that old saying that we cannot see the forest for the trees. When it comes to expanding and moving the huge amounts of surplus agricultural commodities that we now have here in storage in the United States in our granaries and our warehouses, I think the reverse is true. This administration cannot find the trees for the forest. We have huge quantities of wheat, over 1 billion bushels, that are surplus to our needs. We have 2 billion pounds of milk, cheese, and butter sitting at Federal warehouses where we pay storage costs, and there is much more to come.

Here at home we have a failure in finding how to use our outreach programs through the Department of Agriculture and through other Federal agencies, and we find that sometimes senior citizens cannot get the surplus food commodities that they would like to have for their meals programs, or the Salvation Army fails to have enough of what they need to distribute to the hungry. Even our charitable organizations, primarily church food banks, cannot find the food to give to the hungry right here.

Abroad, we have a peculiar situation where we run the store this way: We want to sell, we want to dispose of these surplus commodities abroad, and our State Department dawdles and diddles and tries to set up a policy that they believe is correct in individual countries.

The Agriculture Department hunts for macrosales, those huge sales of millions of tons to this or that country where they could add up to be significant so that we could recapture part of the lost agricultural exports from the United States. We are looking at exporting about 25 million tons of our surplus commodities abroad when only a few years ago it was up as high as 48 million tons. So they are looking for the macrosales. Meanwhile, the President seems to be befuddled, hapless and ineffective.

Well, these macrosales that they talk about, these huge sales, they are the forest. They are the forest that they are looking for, and the trees are right in front of them. The trees are the smaller sales, the smaller disposals.

Let us look at the record.

We appropriated $225 million to be used in Africa for food relief to a whole series of countries. The State Department tells us they will not use it. Meanwhile, the State Department tells us they are on a program of privatization. We looked at eight or nine countries in Africa and around the world where their privatization policy last year delayed, blocked, or cut sales to individual countries of our wheat, of our milk, of our other commodities.

Third, when we passed the farm bill last year we mandated that a special adviser to the President would be appointed for the very purpose of sorting out between AID and Agriculture, between OMB and the Treasury Department and Commerce. When is a sale, when is a disposal program, going to be allowed abroad to cut the redtape? So far that special adviser, though mandated last year, again specified in actions taken by Congress this year, has not been appointed.

Fourth, the administration's budget cuts, of all things, cuts the cooperative programs abroad for U.S. wheat or the U.S. Food Grains Association that have people stationed abroad to assist in foreign sales of agriculture commodities, and also cuts the Foreign Aid Agricultural Service, those people working for the Department of Agriculture in conjunction with the State Department assigned to embassies in significant countries around the world to help in agricultural sales.

□ 0950

What kind of a store are we running when we are in our most miserable times trying to recoup lost markets, trying to utilize properly our food abundance here, in the United States, with friendly countries abroad, and we are cutting the very means of making that possible?

Fifth, but not the least, Mr. President, last week, in a smaller deal, for the Philippines, we wanted maybe $50 million worth of additional food commodities for our friends in the Philippines. That seemed too large, the State Department told us, so we cut it back. We came with a $10 million program in what is known as section 108, which is a very basic cooperative program to help other countries so they can lift themselves up by their bootstraps.

And it is not money. The money is provided by providing $10 million in milk and wheat to be utilized in the Philippines for their basic redevelopment programs. But that was blocked by the loyal followers of the Department of State in this Chamber. The junior Senator from Wisconsin [Mr. KASTEN] said that the $10 million in milk and wheat for the Philippines at this point in the section 108 program was too much.

This, my friends, all adds up to gross mismanagement and it serves no one. This type of action, these combinations neither help the hungry here, in the United States—they are hurt and the hungry abroad are hurt and our farmers are hurt. And last, the Treasury is hurt because we hang onto the surplus and we pay more through the farm programs to the producers because of these lower programs.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR CHAFEE

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

THE COMMUNITY AND FAMILY LIVING AMENDMENTS OF 1985

Mr. CHAFEE. Mr. President, I am here today to discuss S. 873—legislation I have introduced which would reform the Medicaid program as it relates to those with developmental disabilities and to bring to the Senate's attention a recent initiative in my home State of Rhode Island which will help those with disabilities find meaningful employment.

Medicaid is the Federal program which provides States with the bulk of funding for long-term care services for the disabled. Currently these funds flow primarily toward large facilities. The reason for this has more to do with what Medicaid will pay for than what system of care and services is best for each individual. This funding bias—in other words, the fact that Medicaid pays for institutional services but will not pay for many other services—has meant that disabled individuals are offered few options for remaining in their own communities—with their families and friends. As they become young adults, our system of funding the services they need wrenches them away from their own communities and into residential programs they do not want because there are no other options available.

It is because of this funding bias and lack of alternative services that I introduced S. 873.

This bill stands for the proposition that there should be a range of services available for those with mental and physical impairments. My bill will allow Medicaid expenditures to support people in a wide variety of settings: Natural family homes; foster homes; adoptive homes; independent living arrangements; new community residences of up to about 12 people; and existing clusters of up to three homes. In addition S. 873 would allow 15 percent of a State's total Medicaid budget to be used to support institutional placements.

But ensuring that those with disabilities have the support to remain in the community is not enough. Access to the work force is a critical part of any proposal designed to assist the developmentally disabled pursue a full and active life.

We are in an era of changing technology and experience. Our understanding of the capabilities of those with disabilities is changing quickly.

I am proud to say that the State of Rhode Island has become a national model in its promotion of community-based care. Rhode Islanders recognize that people with disabilities have the right and the need to live and work in the community, regardless of the severity of their disability.

The ocean State has steadily been moving toward the eventual closing of our institutions in the State. A move, I might add, that today is eagerly anticipated by all of the parents whose disabled children still reside in Rhode Island institutions. They are satisfied that the State has a committment to providing a high quality of care and services. Dumping is a word that does not apply in my State.

Rhode Islanders, recognize that no program of community based care can be complete without the availability of meaningful work opportunities. On June 9, Rhode Island took a giant step forward in ensuring that such opportunities are available.

Monday, June 9, at the Providence Civic Center in Rhode Island, 75 companies and close to 2,000 handicapped individuals took part in the projects with industry job fair for the handicapable. It was the first of its kind in New England. Once again, our fellow New England States are calling Rhode Island to find out how to follow its lead.

Mr. L. Jim Williams, the executive director of projects with industry in the State, says it is too soon to know the exact results of the job fair. However, judging from the calls he has received from the companies represented at the job fair he estimates that about 200 people will be offered employment.

The job openings for which the companies set up interviews on Monday ranged from cooks at McDonalds to mechanical engineers at a large machine tool manufacturer.

I salute projects in industry for their efforts in bringing together employers and prospective employees. I salute those companies willing to open a window of opportunity to those with disabilities. Finally, I salute those individuals who have had the courage and resolve to find a job despite their disability.

We may be the smallest State in the country, but we are the biggest State when it comes to giving people from all walks of life the opportunity to participate in the Rhode Island dream—independence, dignity, and meaningful work.

I urge all employers looking for hardworking, talented people to call the Projects with Industry Program in their own State. They may just have the person for whom you have been searching!

Mr. President, I ask unanimous consent that an article appearing in the Providence Journal about the job fair be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EMPLOYERS, APPLICANTS UNITED AT JOB FAIR FOR THE HANDICAPPED

(By Steve Winter)

PROVIDENCE.—Some came in wheelchairs, some came on crutches. Some talked in sign language and some in slow, deliberate drawls. Some had master's degrees, but many had never finished grade school. Some were supported by canes or walkers—accompanied by friends, relatives or Seeing Eye dogs.

Their common bond was their story: No experience. No job.

Yesterday, a job fair—exclusively for the handicapped—drew about 1,500 handicapped people from Rhode Island and Southeastern Massachusetts to the Civic Center. About 75 area companies sent representatives with information and employment applications.

The basic idea was to help the handicapped find jobs. But the bigger goal was to change the way the handicapped feel about getting jobs.

"They need to understand that there is a group that cares and can get employers in here," said Sam House, a member of the Business Labor Advisory Committee of Projects With Industry (PWI), which sponsored the job fair.

One woman, sobbing, left the Civic Center yesterday morning to collect herself outside.

"I haven't been working and I'm trying to find a job and I'm having problems," said the woman, Claire Pompel, 30, of Providence. "I have no experience, so I have nothing to go on.

"I got discouraged in there."

According to PWI there are at least 16,000 unemployed handicapped people in Rhode Island.

One of the problems, said PWI executive director L. Jim Williams, is that other job and training programs for the handicapped have lacked a link to industry. (PWI is a federally backed unit of the Industry Education Labor Council of Rhode Island.)

"Sure, the handicapped have gained parking spaces and there's been a lot of publicity about their special needs, but that doesn't put money in their pockets," said Williams.

Mary Hoyle, 35 and visually impaired, said she has faced repeated rejection from employers.

"I don't know how many applications I've filed," said Hoyle, who is divorced. She said she hasn't worked "except for a few months" since her high school graduation 17 years ago.

"Either you never hear from the company or they give you some kind of a story," she said.

Barriers have never been broken, said Joseph Tremmel, 30, of Warwick who has served on state advisory committees exploring services to the handicapped.

"There's still an uneasiness—sympathy instead of empathy," said Tremmel, who suffers from cerebral palsy.

"I'd be surprised if 2 percent of the people here get jobs," said Tremmel, who gets by on SSI and donations—perhaps $15 or $20 per day—from playing the harmonica on Westminster Mall.

"You've got to keep on trying," said Henry Carter, 30, of Providence, another cerebral palsy victim.

Carter graduated from CCRI in 1983 and has been trying to find a job in banking since. Yesterday, he was looking forward to making connections with First National Bank. "I just want to get my foot in the door," he said.

The fair, said Williams, was the first of its kind in the United States.

Some 4,000 handicapped people were invited.

"If only one person gets a job, this will be a success," said Williams.

Perhaps success could be measured by the experience of Claire Pompel, who had left the job fair in tears.

She went back inside.

"Can I change my mind?" she asked a reporter. Afte talking to several other companies, she said, she felt better about her chances of finding a job. "It seemed better (talking to companies) at this end."

"Or maybe I'm better."

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CHAFEE. I ask unanimous consent to have 1 more minute.

Mr. WALLOP. Mr. President, I regret it, but I must object because there are only 4 minutes left in morning business.

Mr. CHAFEE. Fine, Mr. President. I thank the Senator from Wyoming for letting me go ahead.

RECOGNITION OF SENATOR WALLOP

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. I thank the Chair.

SALT DISMANTLEMENT

Mr. WALLOP. Mr. President, it has been widely asserted by some Members of Congress and by professional arms control advocates that SALT is in our interest because it has required the Soviets to dismantle more nuclear systems than the United States. Most of the numbers being thrown around are based on false assumptions, and have been contrived to make the Soviets appear the losers in the dismantlement game. Nothing could be further from the truth.

The Soviets have actually dismantled under the terms of SALT I and SALT II 72 SS-11 ICBM's, 209 SS-7/8 ICBM's and 14 *Yankee* class submarines with 224 missiles. In addition, a handful of *Hotel* class submarines, each carrying 3 missiles, and a few old Bison bombers, have been dismantled. These are the only systems that have actually been dismantled, in effect, the launcher has been destroyed. We have no idea, by the way, what happened to the missiles taken from these launchers, as the requirements of SALT do not discuss those. In the case of the 72 SS-11's, they have been replaced by the new, more capable SS-25 mobile ICBM.

Mr. President, no modern Soviet nuclear system—that is, a system first deployed less than about 20 years ago—has ever been dismantled under the terms of any SALT agreement, and the Soviets have never dismantled any system that was MIRV'd.

If some Senators are still disposed to believe that what the Soviets have dismantled is meaningful in any sense, consider the following: When the Soviets signed SALT II they had 2,504 delivery vehicles. Today they have at least 2,520 and have had as many as 2,540. How could the Soviets have dismantled over 1,000 nuclear systems without reducing their total number of SALT accountable launchers? The answer is that their dismantlement has been meaningful for our security.

The United States has actually dismantled more warheads on launchers than the Soviets. In fact, the three Poseidon submarines which we have dismantled contain almost as many warheads as all the Soviet warheads dismantled under both SALT agreements since 1972. In addition, we have dismantled eight Polaris submarines, several dozen Titan II ICBM's and dozens of B-52's.

In every case, the American systems dismantled were more capable than their Soviet counterparts. The Polaris A-3 missiles had greater range and accuracy than the Soviet SS-N6. The U.S. Poseidon C-3 missiles were far more capable than the SS-N-6. They carried between 10 to 14 warheads, versus 1 for the SS-N-6, and still had greater range and accuracy. The U.S. Titan II missile system had twice the throw-weight and better accuracy than the Soviet SS-7's or SS-8's.

Much of what their apologists have labeled dismantlement is actually replacement, and thus part of the ongoing Soviet modernization program, a program that has increased the Soviet warhead total by over 40 percent since the signing of SALT I in 1972. I would ask the Senators who cling to SALT: Do you call this protecting Americans? The 500 or so SS-11 dismantlements that some people count are not dismantlements at all, since the Soviet simply modified the silos and placed SS-17 and SS-19 missiles in them, each carrying 4 to 6 times as many warheads with greater accuracy. Does this provide safety for Americans? The 300-odd SS-9's that some claim had been dismantled were replaced by SS-18's, the Giant Soviet missile that carries at least 10 warheads, where the SS-9 only carried 1. Who will say that Americans are safer for this?

□ 1000

It is the replacement of the SS-9 with the SS-18 that is largely responsible for the vulnerability of our minuteman ICBM force today. It is directly misleading to include these numbers in the list of Soviet dismantlements, in as much as the Soviets replaced these systems with newer, more capable weapons that present a far greater threat to America.

Those who espouse the view that these dismantlements have really improved United States security assume that it is SALT that made the Soviets

retire aging systems. And by implication, that without SALT they would keep them on-line, capable for launch against us in minutes. Mr. President, this is absurd.

Would our Navy keep ships manned with crews and ready for sea just because they can float? Especially if they had produced newer, more powerful ships with which to fulfill their mission? Of course not. In truth, Mr. President, there is no reason to believe that the Soviets would have kept these old systems on-line without SALT constraints. This is a red herring. To have done so would be enormously expensive, and the marginal gain for the Soviets little. Instead, the Soviets have simply stockpiled these older missiles as a strategic reserve against us, a reserve to which we have no equivalent.

Mr. President, the SALT agreements have not constrained the Soviet buildup. The few weapons they have had to dismantle were literally junk compared with the modern systems that replaced them. These facts accurately dispel the myth that SALT has required the Soviets to dismantle more than the United States, and that for this reason, we ought to remain in unilateral compliance with its terms.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. D'AMATO). There will now be a period for routine morning business.

THE TAX REFORM BILL

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I see the distinguished Senator from Wisconsin is here. I am advised that the managers on each side are on their way so we will start on H.R. 3838 momentarily, and hopefully between now and 4 o'clock we can dispose of a number of amendments so that on Monday we can all be sort of in wrap-up stage and maybe we could agree to a vote on final passage at 2 o'clock on Tuesday. But in any event, that is our hope. We will see how it goes today and Monday.

FATHER'S DAY/PRO FAMILY TAX BILL

Mr. DOLE. Mr. President, this Sunday is Father's Day. And I cannot think of a better present for the fathers of America than passage of the tax reform bill.

The average American family will without question benefit from the passage of tax reform. It is more than just a matter of dollars and cents. With a new, streamlined Tax Code the economic decisions affecting a family's lifestyle, both immediate and long term, will be made in a straightforward, simpler, and fairer way.

For years we have tolerated a Tax Code in this country that contributed nothing toward the family. But the tax reform bill we have been debating all week—and which we will pass next week—makes several giant steps in the direction of basic fairness and social cohesion.

The Senate is about to do what the House failed to do: By increasing the personal exemption to $2,000, except for the wealthiest among us, and by refusing to draw an unfair distinction between taxpayers who itemize and others who do not.

With just two tax rates—15 percent and 27 percent—some 80 percent of all the American people will find themselves taxed at the lower figure. And even the 27 percent top rate is lower than at any time since 1931.

Families that need help will receive it. Some 6½ million of the working poor will be taken off the tax rolls entirely. For a family of four, income up to $13,000 will be subject to no tax. At the same time, the earned income credit—another important boost to the working poor—will rise from the present 11 percent to 14 percent, while the income levels at which the credit is phased out will also go up. Most important of all, the credit will be indexed to inflation. As a result, the working poor will enjoy the benefits of tax indexing, the most pro family tax reform in decades.

With these new, pro-family reforms, the Senate's tax package retained some very important existing tax benefits for families, including the $600 deduction for elderly and blind dependents, and the child care credit, which give a tax break to working people who have youngsters to care for at home.

In addition, for all taxpayers who file joint returns, the standard deduction or zero bracket will go up to $5,000 from the present level of $3,670. And this change, like the rate brackets and the new personal exemption, will continue to be guaranteed against future inflation.

Mr. President, Father's Day is a day for families, for reaffirming the important of love, commitment, and sharing. We have a responsibility, I believe, as public servants to create public policy that does whatever possible to maintain, if not encourage, the viability of the American family. The tax bill we will vote on in the next few days does just that.

DEFORESTATION

Mr. INOUYE. Mr. President, I rise today to bring to my colleagues' attention the efforts of three scientists to address the urgent problem of deforestation. These men—James L. Brewbaker from the University of Hawaii, Michael Benge from the U.S. Agency for International Development, and E. Mark Hutton from Australia—have developed a fast-growing, nitrogen-fixing tree, leucaena, which they are using to restore the forests and hillsides of more than 20 countries around the world. They are being honored today with the first International Inventors Award for forestry, which they will receive from the King of Sweden.

The contributions of these three men are detailed in the attached letter from Noel Vietmeyer to the International Inventor's Award selection committee. I am especially pleased to note the role played by Professor Brewbaker, who is professor of agronomy at the University of Hawaii, in the development of leucaena. Mr. President, I ask unanimous consent that the full text of Mr. Vietmeyer's letter dated August 2, 1985, be included in the RECORD so that my colleagues may appreciate the full extent of the contributions made by these great men.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL RESEARCH COUNCIL,
OFFICE OF INTERNATIONAL AFFAIRS,
Washington, DC, August 2, 1985.

To the International Inventor's Award:

Tropical forests are being cut faster than they can replenish themselves. In what may well prove to be the biggest environmental mismanagement of all time one-third of South America's vast tropical forests, one-half of Africa's, and two-thirds of Southeast Asia's have been destroyed. Deforestation leaves the ground unprotected. Without trees and their root systems, heavy rains on the hillslopes cause rushing water that erodes the land and produces devastating floods that despoil highways, dams, bridges, towns, villages, and farm lands. One storm can wash away a century's accumulation of topsoil.

But in the Philippines and at many other spots in the tropics, a spark of hope is appearing. It is a new generation of trees—very fast-growing leguminous trees.

Most people think of legumes as something served with the main course at dinner, but actually the legume is the third largest plant family, (after orchids and grasses). More than 18,000 leguminous species are known, including peas, beans, soybeans, peanuts, clover and alfalfa, as well as several thousand species of trees. In the tropics the one that is sparking the most attention is leucaena (Leucaena leucocephala).

Leucaena is so productive that it's cultivation may well lessen the forest destruction by providing the firewood, lumber, and paper that expanding populations in the tropics need. It produces what is essentially a permanent forest because the stump of a felled leucaena tree sprouts with such vigor that the plant literally defies the woodcutter. And leucaena is a tree that can feed cattle, goats, water buffalo, and some other ruminant animals.

It is becoming recognized as one of the fastest growing and most useful trees in the tropics. For example, the Philippines is investing more than $100 million in a rural electrification program based on buring leucaena wood; Taiwan has planted 10,000 hectares of leucaena for paper and rayon production; Indonesia has a major provincial development program using leucaena as a

village forage and for green manure and fuel; in India a foundation has distributed 40 tons of leucaena seed throughout the Subcontinent; Haiti is spending $8 million to reforest eroding hillslopes, using mainly leucaena; and other countries—among them the Dominican Republic, Kenya, Malawi, Mexico, Sri Lanka, and Thailand—have started leucaena programs.

Leucaena has demonstrated that it can grow over a wide range of environments. Its deep tap root makes it drought tolerant so it often provides the only greenery in the dry season. In addition, it fixes a lot of nitrogen—in trials in Queensland leucaena stands have been recorded fixing more than 500 kg of nitrogen per hectare per year.

In recent decades leucaena has given hope that deforestation can be conquered. And it has opened up the new avenue of possibilities for other nitrogen-fixing trees, such as those of the genera Calliandra, Acacia, Mimosa, Prosopis, Albizia, and Sesbania.

The development of leucaena is due to three pioneers: Michael Benge, James Brewbaker, and Mark Hutton. These are the crusaders who have given the world this new weapon in the war against deforestation.

MICHAEL BENGE

Michael Benge is an administrator with the Agency for International Development. He began trials with leucaena in 1965 when he was working to help the hill-tribes of Vietnam. He was introduced to the promise of leucaena by a visiting Australian who suggested that the Cunningham variety (developed by Mark Hutton, see later) could be a possible forage for the dry season. Benge thought it might be "just the thing" for slash-and-burn cultivators, and soon he was planting it as living fences, and in study plots in an abandoned rice field.

These experiments were interrupted by his capture by Viet Cong forces and his imprisonment under appalling conditions for more than five years.

After his release, Benge returned to Vietnam to again help Montagnard tribes improve their agriculture and lives through using leucaena. Later, he went to the Philippines, obtained funds from the Agency for International Development, gathered literature on leucaena and began publicizing the promise of this self-fertilizing tree. "The Green Revolution missed hill-land farmers," he says, "because they can't afford fertilizer." He points out that leucaena's outstanding nitrogen fixation and deep roots promised to add nitrogen and minerals to the top soil layers thus bringing the Green Revolution's benefits to many more farmers in a 'gentle' natural way.

In 1973, Benge learned of James Brewbaker's "giant" leucaena varieties in Hawaii (see next section), paid for Brewbaker to visit the Philippines and organized a seminar for Filipino scientists, administrators, politicians, entrepreneurs, farmers and the press. The convergence on the Philippines of these two leucaena pioneers led to the "Giant ipil-ipil" craze that has swept the Philippines in the years since.

Subsequently, more than 50,000 copies of a report Benge wrote on leucaena were published. More than 100,000 hectares of the tree was planted. Peasants began selling leucaena leaves on a very large scale to companies making poultry rations and this also led to substantial exports to Japan.

In more recent times Benge has initiated projects with the crop in India, Indonesia, Haiti, Nigeria, and other nations by mailing out thousands of reports and packages of seeds, writing reviews and papers (translated into Thai, Indonesian, French and Spanish).

JAMES BREWBAKER

James Brewbaker is a professor of agronomy at the University of Hawaii. His specialty is breeding corn and other vegetable crops for tropical regions. He has little background in forestry, but since the 1960s he has been the leading scientist behind the development of treelike leucaena varieties.

It happened by accident. In 1963 he was scouring Central America for corn germplasm when, in the hinterland of Guatemala and El Salvador, he noticed strains of leucaena that grew into tall trees. Luecaena is a wild shrubby weed in Hawaii and he'd never heard of a treelike variety. When planted in Hawaii the new variety grew at an astounding rate. Some specimens were 6 m tall before they were one year old; 15 m high in eight years. Remarkably, for such a fast-growing species, their wood was as dense as oak.

This was a major find, and Brewbaker selected several varieties (K8, K67, K128, and others) and distributed their seed throughout the tropics. Today these "giant Hawaiian" leucaenas are astounding people from Haiti to the Philippines to Malawi.

In the years since his discovery Professor Brewbaker has conducted basic research on leucaena taxonomy, and silviculture. He has gathered germplasm throughout Central America not only of leucaena, but of its botanical relatives.

More recently he has organized the Nitrogen-Fixing Tree Association to promulgate information on the promise of leucaena and similar fast-growing trees. Also, he publishes Leucaena Research Reports, a journal devoted to the species, as well as bulletins on the propagation and management of leucaena. He has trained many students and advised many countries where the tree has promise. All in all, Brewbaker has laid the scientific groundwork for this new tree resource.

MARK HUTTON

Mark Hutton is former director of the Cunningham Laboratory, in Brisbane, Australia. This is a division of the Commonwealth Scientific and Industrial Organization specializing in tropical agricultural research. There, Hutton has invested his long career in developing pasture species for the tropics. He has spent more than 40 years creating varieties of legumes for difficult soils in northern Australia. His "retirement" is being spent in Colombia and Brazil battling the acidic and toxic soils that ("janos" and "cerrado") that together stretch from Venezuela to southern Brazil. These soils kill most plants because of their high amounts of soluble alumina.

Part of Hutton's prodigious energy has long been invested in the advancement of leucaena—a courageous act in a profession used to dealing only with herbaceous pasture legumes and grasses, not a woody shrub. Over the decades, his fascination with leucaena was scorned by most of his colleagues. They questioned his judgment; almost none thought a tree could ever make a useful livestock feed. But Hutton was impressed with the plant's vigor, its high protein level (27-34 percent, which exceeds that of other tropical pasture legumes), and high digestibility, as well as with the cattle's eagerness to eat it.

Today, thanks to Hutton's leadership, we know that leucaena is potentially one of the most valuable fodder sources for the tropics. Grown on well-drained, fertile soils, and regularly mowed or clipped, it produces large quantities of foliage. For ruminant animals such as cattle, water buffalo, and goats, this is palatable, digestible, and nutritious. Consequently, leucaena is a promising candidate for increasing meat and milk production throughout much of the tropics.

Although it is inherently a tree, the animals browse the stems and leaves, giving no chance for thick woody stems to develop. Keeping animals out until the plants are 1 or 2m high produces a 3-dimensional block of forage in which the livestock find feed from ground level to eye level. This makes for a very productive pasture; and has led to some of the highest meat and milk production ever recorded in the tropics. The plants resprout with vigor, and in Australia some fields are still in production after 17 years of periodic grazing.

However, the plant had a major drawback. Cattle in Australia, Papua New Guinea, and perhaps some other areas suffer nutritional disabilities after feeding on high levels of leucaena for a long time. Hutton and a few disciples traced the cause to mimosine, an unusual amino acid present in the leaves. Over the last few years Hutton's colleague and protege, Raymond Jones, has shown that outside of Australia and Papua New Guinea ruminants have stomach microorganisms that render mimosine harmless; in those regions ruminants can eat leucaena without ill effect. Jones is now introducing the bacteria into Australia so that ruminant animals there too will soon be able to eat leucaena extensively without harm.

SUMMARY

Leucaena is a harbinger of what is becoming a whole new world of forestry in which trees that fix their own nitrogen are grown like field crops. In the humid tropics and in semiarid lands, this coalescing of agriculture and forestry has special significance. Tree roots penetrate to deep layers of fertility and moisture unavailable to conventional crops and a tree canopy shelters and shades fragile topsoil from devastating tropical downpours or baking desert heat. Whether grown for wood, for forage or to fertilize other crops these "gentle" trees benefit the land and the people.

Leucaena is breathing new life into tropical forestry, a science long in decline and lacking in recognition and invention. In a sense, tropical forestry has become too important to leave to the small number of poorly supported tropical foresters. Now we have a motivated administrator, Michael Benge; a corn breeder, James Brewbaker; and a pasture specialist Mark Hutton, carving out new avenues of forestry innovation. We are entering a new era in which the widespread planting of leguminous trees will help solve the overwhelming problems of denudation, land degradation, unemployment, animal feed, and energy supply in rural regions of the Third World. Leucaena and similar leguminous trees should prove to be the saviors of the last remnants of the world's native tropical forests. There has probably been no more inventive discovery in recent decades.

Sincerely yours,

NOEL VIETMEYER,
Professional Associate.

MS. NANCY M. NEUMAN, NEW PRESIDENT OF LEAGUE OF WOMEN VOTERS

Mr. SPECTER. Mr. President, it is with great pride that I congratulate and extend best wishes to Ms. Nancy M. Neuman of Lewisburg, PA, who on Wednesday June 18, 1986, will become the first Pennsylvanian to be elected president of the League of Women Voters of the United States. As president of the 66-year-old organization, Ms. Neuman will direct the organization's 250,000 members and supporters and promote the League's advocacy agenda. Currently, the League of Women Voters is focusing on vital issues like arms control; securing an equitable, responsible Federal fiscal policy; protecting the environment; and protecting the civil rights of women and minorities.

Ms. Neuman, who has been active in the League of Women Voters for 20 years, is uniquely qualified to provide national leadership to an organization which addresses such diverse issues. Ms. Neuman has served on the Federal Judicial Nominating Commission of Pennsylvania, a bipartisan commission which my distinguished colleague, Senator HEINZ, and I appoint to screen candidates to fill Federal district court vacancies. She was appointed to the Commission in 1977, and served as its chairperson from 1978 to 1981 and from 1982 to 1983.

In 1980, Ms. Neuman was one of the first nonattorneys to be appointed to the board of directors of the Disciplinary Board of the Supreme Court of Pennsylvania. This board adjudicates cases of misconduct brought against attorneys and reviews petitions for reinstatement to the Bar of Pennsylvania.

Previously, Ms. Neuman had served on the State Appellate Court Nominating Commission, and on the Governor's Task Force on Voter Registration which drafted the registration by mail legislation enacted in Pennsylvania in July 1976.

Ms. Neuman began her career with the League of Women Voters in 1966. She served as president of the Lewisburg Chapter of the Pennsylvania League of Women Voters from 1967 to 1970. In 1970, she became a member of the Pennsylvania League of Women Voters Board, and from 1975 to 1977, Ms. Neuman served as president of the Pennsylvania League of Women Voters.

Ms. Neuman has served on the League's national board for 8 years, holding the first and second vice president positions, and has also served on its executive committee. A longtime activist for equal rights for women, Ms. Neuman chaired the League's Equal Rights Amendment Campaign from 1977-79.

Ms. Neuman has received numerous honors and awards including an honorary doctor of law degree from Pomona College in California for "tireless contributions to the improvement of society." In 1983, the Young Lawyers' Division of the Pennsylvania Bar Association presented Ms. Neuman with the Liberty Bell Award for defending the American system of freedom under the law. In addition, she has served on the boards of the Federal Home Loan Bank of Pittsburgh and the Pennsylvania Housing Finance Agency. Currently, she sits on the boards of the Rural Coalition, the Citizens Forum on Self-Government/National Municipal League and the American Arbitration Association.

Ms. Neuman's husband, Mark, is a professor of history at Bucknell University. They have three children, Jennifer and Jeffrey Neumann and Deborah Mitzler.

Obviously, Ms. Neuman is an individual whose breadth of knowledge and experience qualify her for a wide range of leadership roles on the national level. Her choice of the League of Women Voters of the United States as the primary recipient of her leadership talents is a tribute to the important work being done by that organization.

Congratulations, Nancy, and I look forward to continued work with the League during the coming years.

FEDERAL TAX CHANGE AND THE PRIVATE FOREST SECTOR

Mr. GORTON. Mr. President, the Senate is now in the midst of its deliberations of reforms to the Tax Code. Because of the important role the Tax Code has on the timber industry, which is vital to the economic well-being of my State, I would like to submit for the RECORD the executive summary of a concensus report titled "Federal Income Tax Change and the Private Forest Sector." This report was the result of a conference sponsored earlier this year by the National Friends of Grey Towers, a center of excellence in conservation thought and policy.

The report analyzes changes to the Tax Code that were proposed in the House bill and Treasury II and represents the consensus opinion of recognized experts in the field of timber taxation. The members of the task force included: Dr. Hugh Canham, SUNY College of Environmental Science and Forestry; Mr. William Condrell, Steptoe and Johnson; Mr. Merle Conkin, Container Corporation of America; Dr. John Gray, National Friends of Grey Towers; Dr. Harry Haney, Virginia Polytecnic Institute; Mr. Charles Raper, Travelers Insurance; Dr. William Siegel, U.S. Forest Service; Dr. William Sizemore, Sizemore & Sizemore; Mr. Richard Smith, John Hancock Mutual Life Insurance Co.; Dr. Robert McMahon, Oregon State University; Mr. Samuel Radcliffe, George Banzhaf & Co.; Mr. Thomas Volpe, Champion International; Mr. Neil Wissing, Weyerhaeuser Company; Mr. Robert Wright, Arthur Andersen & Co.; and Dr. James Voho, Duke University.

The issues discussed in the report are of continuing significance until Congress agrees on a final tax reform package. I would like my colleagues to have the opportunity to review for themselves the conclusions reached by this prominent panel of timber tax experts.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

FEDERAL INCOME TAX CHANGE AND THE PRIVATE FOREST SECTOR

EXECUTIVE SUMMARY

The United States since 1944 has had a moderately favorable and relatively stable federal income tax policy which has provided for greater equity between forest and timber production and other enterprises, and among the various categories of forest owners. Current proposals for change emanating from the Executive branch (Treasury II) and from the House of Representatives (H.R. 3838) discriminate against forest and timber production enterprises, especially corporate owners. These proposals destroy the equity which now exists within the forest ownership sector. They severely impact the production of timber both in the short term and in the long term. The impacts on the forest and timber producing sector will have economic and social consequences affecting unfavorably many aspects of the American way of life.

The United States has a substantial forest land base suitable and available for producing timber and many other forest outputs. Public policy since Colonial times has recognized the unique national asset and renewable trust that this resource represents. Our commercial forests cover more than one fifth of the total land area, are predominantly in private ownership, and produce 20 percent of the world harvest of wood for construction, furniture, paper, board products, and a host of other uses. They also produce vast amounts of generally unpriced social and environmental benefits. Our forest resources and the array of activities based on them are deeply interwoven into the economic, social, and environmental fabric of the nation. Although productivity has increased over the past half century, expanded investment is needed to offset forecast continued declines in softwood forest resources and in large, high quality timber of both hardwoods and softwoods. Any major shift in forest and timber investment and management will produce consequences for the American society and economy beyond the immediate private forest sector.

All significant timber producing nations of the free world recognize the unique, long term, capital intensive nature of timber production, the risks from insects and diseases and fire, and the uncertainty of predicting markets 20, 30 or even 80 years into the future. These nations offer special tax provisions, and financial assistance, and have developed other public policies to encourage private forest owners to manage their lands in the public interest.

Enactment of either Treasury II or H.R. 3838 decreases the after-tax profitability of

timber investment and management. This promises to drop the return on invested capital below the minimum required in today's economy to attract investors. This will come about through the repeal of capital gains provisions for revenues from timber harvest and sale, elimination of deduction of maintenance, taxes and interest expenses in the year in which they are incurred, and complete elimination of PL 96-451 which makes special provision for a limited amount of reforestation-expenditures annually.

Short term impacts on the timber sector include an expected increase in liquidation of timber standing on both industry lands and nonindustrial forest lands. Forest management practices will be curtailed including thinning to improve timber growth rate, removal of diseased or otherwise unsuitable cull trees, pest and fire control, and access road development. Tree planting on many lands will cease. There will be less protection of the site and other nontimber forest values as timber is harvested in more of a "cut out and get out" manner. Forest land values will drop.

In the more distant future even more severe impacts may occur. Timber supply will decline. That is, there will be fewer acres under intensive timber management, the overall growth of the timber will be slower, quality and size of the trees will be less, and it will require much longer time to produce high quality timber for lumber, wood furniture, veneer, and related products. There will be a shift from softwoods to more hardwoods necessitating changes in manufacturing technology in the pulp and paper industry and in the use of wood in house construction. Forest ownership will shift to people with only a custodial interest in forest management. Overall there will be less domestic wood and paper products for the American consumer and higher prices.

There will be broader economic and social effects of the changes brought on the timber sector by enactment of either of the two tax proposals. In the long term, U.S. timber and forest products exports, which are predominantly softwood, will be reduced. In recent years over 6 billion dollars worth of wood products were exported annually but this will drop if timber investments and management are reduced and prices rise. United States producers will be placed at a cost disadvantage with foreign producers where tax policies are similar to the existing U.S. tax code for forestry.

Rural economies will be particularly hard hit by changes brought on by enactment of the tax proposals. Forests and forest products activities are predominately rural economic activities. Long term declines in forest productivity, timber based employment and income will intensify the rural crisis caused by the current agricultural recession. Rural banks and other lending institutions, such as the Farm Credit System, will experience a drop in collateral values. Local governments and school districts will find property tax bases eroded and will be forced to shift to other revenue sources, if possible, to maintain public services.

Fewer amenity services will be available on private lands which currently make important contributions to overall recreational opportunities in the nation. This curtailment of services will be necessary since the added costs of public access to private forest lands will no longer be deductible against current incomes. In turn, this, coupled with decreased timber production on private lands, will place increased pressures on public agencies to manage their lands more intensively for both timber and recreation.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Morning business is concluded.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will report the unfinished business.

The assistant legislative clerk read as follows:

A bill (H.R. 3838) to reform the Internal Revenue laws of the United States.

The Senate resumed consideration of the bill.

Pending:

Kasten-Inouye Amendment No. 2077, to provide for charitable deductions for nonitemizers and to lower the threshold for phasing out the personal exemption.

AMENDMENT NO. 2077

The PRESIDING OFFICER. The question is on amendment 2077.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. The question is on amendment 2077.

Mr. KASTEN. And that is the amendment that Senator INOUYE and I have introduced regarding the deductibility of charitable contributions?

The PRESIDING OFFICER. That is correct.

Mr. KASTEN. Mr. President, today I am submitting an amendment to make permanent the deduction for charitable contributions by nonitemizers.

At a time when we are calling on charitable organizations to play an increasing role in our communities, it is critical that we do not take away their most essential fundraising tools.

As reported out of the Senate Finance Committee, H.R. 3838 ended all deductions for charitable contributions by people who do not itemize their tax forms. In other words, they cut them out. People who choose not to itemize can no longer receive charitable deductions. Now, we have estimates that roughly 75 percent of taxpayers will no longer itemize. We are moving toward a fair and simple tax. It is therefore logical that fewer people will take the time, the trouble, and the effort to itemize. We are estimating now that roughly 75 percent of the taxpayers of this country will no longer itemize their deductions. Therefore, the deduction for charitable contributions becomes even more important that we retain it for both itemizers and nonitemizers.

Termination of the nonitemizers charitable deduction would mean that three out of four people in this country, three out of four Americans, would lose their charitable deduction. That deduction would be available only to a relatively few people. Only to about a quarter of the people in the United States of America who are the more affluent, the richer, the taxpayers who decide to itemize.

□ 1010

In 1984, 61 million low- and moderate-income Americans, who did not itemize, contributed $24 billion—or 30 percent of all money donated by individuals. These Americans have played a significant role in providing selfless support for our nonprofit institutions.

According to projections by a Harvard economist and the National Bureau of Economic Research, charitable contributions will decline by $12 billion annually under the Finance Committee's bill.

I want to repeat that: This estimate is projecting that charitable contributions are going to do down, are going to decline, as a result of the legislation we are passing here today. They say they are going to decline by $12 billion. Half of this decline—$6 billion—can be directly tied to the elimination of the charitable deduction for nonitemizers; that is what we are trying to fix.

Mr. President, as we move to reduce Federal deficits, there is growing public support for volunteerism. There is growing public support for people throughout America to band together on their own. There is growing public support for State and local initiatives at the voluntary level, and that public support is also growing for people who choose to make charitable contributions.

This is an amendment that the vast majority of the American people support. It is one that the Nation cannot afford to lose.

Two public opinion polls have measured very strong support for charitable deductions. A January 1985 New York Times/CBS News poll found that 81 percent of those surveyed support a deduction for charitable giving. Only the mortgage interest deduction rated higher. More people were concerned about charitable contributions than about IRA's, and we have had, over the past couple of days, extensive debate on IRA's.

In April 1985, the Los Angeles Times conducted a poll which found that by an overwhelming majority—82 percent—of Americans support the charitable deduction. Even among those who do not claim charitable deductions, 70 percent favored keeping this tax incentive.

I invite my colleagues to join with me in supporting the Nation's churches, synagogues, United Ways, colleges, and civic institutions. Without this amendment they will lose billions of critically needed dollars every year.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am pleased to join my distinguished colleague from Wisconsin, Senator KASTEN, in offering this amendment to make permanent the charitable contributions deduction for nonitemizers.

This amendment will increase fairness, promote a worthwhile social policy, and maintain revenue neutrality in the tax reform effort.

I feel it is important, at a time in which Federal support for charitable and other nonprofit organizations and causes is diminishing, that we not hinder their efforts to raise funds privately. Since 1982, Federal spending in areas where nonprofit groups are active has dropped $70 billion. In order to make up this shortfall, charitable organizations need the charitable contributions deduction kept intact—both for itemizers and nonitemizers.

There can be no doubt that private initiative to enhance the public good is a foundation of our society and should be encouraged by Government policies. Since 1917, the Tax Code has been used to further this aim through the charitable contributions deduction. As the number of taxpayers who itemize their deductions declined in the late 1970's, this deduction was extended to nonitemizers to maintain the broad base for this valuable instrument of public policy. Now, however, at a time when even fewer taxpayers will itemize, the tax reform bill we are considering would eliminate this deduction for all but those relatively few affluent taxpayers who will continue to itemize. I do not feel this is consistent with the goals of our society, and thus I feel we must continue this deduction which benefits not a special interest, but the public interest.

With regard to the effectiveness of the charitable contributions, the numbers speak for themselves. As my colleague from Wisconsin has explained, 30 percent of all individual charitable donations are made by nonitemizers. In 1984, there were $24 billion in contributions from nonitemizers. If our amendment is not adopted, the Finance Committee bill will cause an annual reduction of $12 billion in charitable giving, according to the National Bureau of Economic Research and Harvard economists. This represents a 15.7 percent average reduction in giving. These are not merely losses to the groups that receive the donations, but losses to the millions of people who are the recipients of the wide range of human services dependent on the charitable deduction.

I would like to provide, Mr. President, a breakdown by subsector of the reductions in giving that would result from the Finance Committee bill:

In religion, there will be a reduction of 13.7 percent; in education, 19 percent; in social welfare, 17.6 percent; in health organizations, 17.6 percent; for cultural organizations, 19 percent—a total of 15.7 percent average.

Half of these reductions directly arise from the elimination of the deduction for nonitemizers, the other half from lower marginal tax rates. I think we all must accept the reduced giving resulting from lower rates, but we should not and will not accept the funding hardships which would directly arise from wiping out the charitable deduction for nonitemizers.

□ 1020

These figures demonstrate the importance of the deduction in generating substantially increased giving. While people give to charities based on generosity and willingness to sacrifice for causes they believe in, the deduction prompts people to give more than they otherwise would. In 1985, a survey of 10,000 households was conducted by the American Cancer Society. People who learned about the deduction for nonitemizers gave an average of 10 percent more than those who did not. This represents $6 billion a year in private donations to charitable organizations.

Some would contend that with the lower tax rates, the incentive for giving provided by the deduction for nonitemizers will be greatly weakened. The facts do not support this, however. Currently the majority of nonitemizers who use the deduction pay an average tax of 18 percent. With the Finance Committee bill, these people will be taxed at a 15-percent rate. We do not believe, Mr. President, that this modest reduction in tax rate will significantly change the incentive effect of the deduction. Furthermore, statistics indicate that since the charitable deduction for nonitemizers was instituted in 1981, charitable giving by individuals earning less than $50,000 a year has increased by 18 percent—this at a time in which giving by those earning more than $50,000 has decreased by 34 percent. Clearly, Mr. President, the continued generosity and sacrifice of middle and lower income Americans is vital to the cause and must be encouraged.

A further aspect of our amendment that justifies its adoption is its enhancement of fairness. By retaining the charitable contributions deduction only for taxpayers who itemize, the Finance Committee bill deprives three out of four taxpayers from utilizing the deduction. This would make the charitable deduction available only to an affluent minority, this at a time when broad support for charitable groups is necessary to keep them vital.

Some have suggested that the standard deduction, when first enacted, took into account charitable contributions, resulting in a taxpayer double-dip when they choose to take the standard deduction in lieu of itemizing their deductions and take an above-the-line deduction for charitable contributions. The legislative history does not bear this out, however, and is in fact quite ambiguous on this matter. Nonetheless, the $200 floor below which donations cannot be deducted, which we have included in our amendment, should put to rest concerns over the double-dip issue.

The final important aspect of this amendment is its revenue neutrality. By providing a revenue offset, we are staying within Gramm-Rudman restrictions and keeping the tax bill's revenue impact balanced. The offset we have chosen—the acceleration of the personal exemption phaseout—is one that will affect only those well-to-do Americans who are already greatly benefited by the tax bill, while leaving untouched lower and middle income taxpayers. Under our amendment, the phaseout of the personal exemption which begins as $145,000 of income for joint returns, would be complete at $165,000 of income rather than $185,000 as currently in the bill.

This raises a question of priorities. We must decide if it is more important to provide a few extra dollars to a taxpayer who is already doing well and will be doing better under tax reform; or is it of greater national importance to support nonprofit groups who do such vital work as cancer research, drug prevention, aid to the elderly, environmental protection, sheltering of the homeless, promotion of the arts, and educating our children—just to name a few of the vital functions provided by the groups benefiting from the charitable deduction. We feel, Mr. President, that people in the affected income bracket can more easily afford a slight increase in their effective tax rate as a result of this amendment than the millions of Americans who depend on the variety of public services provided by philanthropic organizations can afford to be deprived of these services.

In summary, Mr. President, for over 200 years the private nonprofit sector of American society has been a creative force helping to shape our values and culture, providing service to the needy, and offering opportunities for individual action and commitment. Over the years, billions of dollars and an equally large amount of time and effort have been voluntarily contributed to causes of all kinds. With the current drought of Federal funds, however, the future of services provided by these organizations is now in doubt. Organizations such as the United Way, the American Cancer Society, the Red Cross, the Boy Scouts, the Girl Scouts, the Child and Family Services, the Environmental Policy Institute, the Goodwill Industries of America, the YMCA, the YWCA, the National Urban League, the National Organization of Women, as well as vir-

tually all our churches, synagogues, temples, hospitals, schools, and museums all depend on the charitable deduction and all would suffer from its elimination. Indeed, Mr. President, we as a society would suffer from its elimination, and I urge my colleagues to take action today to avoid such a tragedy.

Mr. KASTEN. Mr. President, this amendment does not challenge the fundamental principle of the Finance Committee bill, and I simply want to point this out to my colleagues before we begin a more detailed debate. This amendment does not challenge the basic principles, which I support, of the Finance Committee bill.

It does not seek to protect one special interest at the expense of another, and frankly that is what we have been doing for much of the last 4 or 5 days here. Instead, the criteria used in this amendment protects the basic integrity of this bill.

This amendment provides that contributions over $200 in any year are deductible for people who choose not to itemize their returns. In the committee bill, every dollar an itemizer contributes is deductible, but the dollars that the nonitemizer contributes are not.

In addition, this amendment provides for the phasing in of this deduction for nonitemizers. In 1987 and 1988, contributions are 50 percent deductible. In 1989 and 1990 contributions are 75 percent deductible. Then in 1991 contributions are 100 percent deductible.

To finance this amendment we have provided a revenue neutral offset which does not upset the basic criteria of the Finance Committee bill.

This offset changes the committee formula for accelerating the phaseout of the personal exemption. The committee phases out the exemption at the rate of 5 percent for every $1,000 over a specialized threshold. What we do is simply speed up that phaseout. Our amendment instead of 5 percent phases out the exemption at the rate of 12 percent.

Mr. President, I ask unanimous consent to have printed in the RECORD a table which specifies this phaseout.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KASTEN. Mr. President, copies of that table are available in all Senators' offices and also here on the floor.

But let me, if I can, just explain what we are talking about here. Under the new bill, there will be a $2,000 personal exemption for all taxpayers, but at the very higher incomes that $2,000 personal exemption is phased out. The committee felt that the $2,000 personal exemption was not necessary for people at the very high-income levels and it was also felt that the $2,000 personal exemption would help, if we took it out, to skew this bill in favor of the top end of high-income people. Under the Packwood bill, under the bill before us, this personal exemption would be phased out beginning at $145,000 and going to $185,000.

Under our amendment the phaseout still begins at $145,000 but we phase it out faster. Instead of the personal exemptions being available in part to people all the way up to $185,000, under our amendment the phaseout would end at $161,987 or roughly $162,000. So instead of the phaseout ending of the personal exemptions being from $145,000 to $185,000, under our amendment the phaseout would be from $145,000 to $161,000. That is the difference. We both phase out the personal exemption at the high-income levels. We simply phase it out faster.

The point I am trying to make is that this bill does not upset the basic integrity of the Finance Committee bill. It does not lower the rates. It does not change it. It does not increase the rates. It does not change the basic bill.

By supporting this amendment, Senators are going to be backing working men and women of our country and the institutions that they support with their voluntary contributions. This amendment is not a "bill buster" in any way. It protects the integrity of this tax bill. It is important, I believe, for us to make this significant improvement. Voting for this amendment is probably the most important thing a Senator can do this year to help out the charities in our States.

It does not threaten tax reform. In fact this amendment will improve tax reform. I believe it is time to act and I hope that the Senate will adopt this amendment.

EXHIBIT 1

DESCRIPTION OF KASTEN AND INOUYE CHARITABLE AMENDMENT

1. Provides that charitable contributions in excess of $200 in any year are deductible. Phased in over 5 years. 50% first 2 years; 75% second 2 years, and 100% fifth year.

3. Offset: accelerates the phase out of the personal exemption.

Under the Committee Bill, the $2,000 personal exemption is phased out for upper incomes.

In the Committee Bill it is phased out at the rate of 5% for every $1,000 above a specified threshold. We would phase it out at the rate of 12%.

COMPARISON OF KASTEN/INOUYE AMENDMENT AND PACKWOOD BILL

Type of return	Packwood	Kasten/Inouye
Individual	$87,240 to $127,240	$87,240 to $103,907.
Head of household	$111,400 to $151,400	$111,400 to $128,067.
Joint return	$145,000 to $185,000	$145,000 to $161,987.

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1030

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, before I comment on this amendment, I want to announce the transition rule that the Senator from Ohio [Mr. METZENBAUM] is planning to bring it up today. So that those Senators who are interested will know—and we are calling their staffs now—we will start with Unocol, which we announced last night. He then will bring up Cimarron Coal Co., FIRPTA, disclaimer of trust, Physicians Mutual Insurance in Nebraska, Philips, and Denver Rio Grande Railroad. They will not necessarily come in that order after Unocal, although I think by the time we get onto Unocal we will know the order of the others.

But I am expecting the Senators for whom those transition rules were put in the bill will be here to defend those transitions.

Mr. President, this particular charitable deduction, the above-the-line charitable deduction, was put in in the 1981 bill in an amendment sponsored by Senator MOYNIHAN and myself. We are the two principal sponsors that allowed people to take deductions for charity even though they did not itemize. We introduced the bill when we were still at a 70-percent top rate.

We were convinced because the minimum rate for most Americans was then higher than it is now; that it was only fair that we encourage people to give to charity even if they did not itemize. This is called an above-the-line deduction, and to put it in simple terms, what it really means is even if you do not itemize and take deductions, you can still take some deductions. We simply moved them in essence from below the line, where you fill out and itemize, to above the line. Charity deductions or IRA's are above-the-line deductions. You can take them even if you do not itemize. Moving expenses are above the line, employee benefits are above the line, Alimony payments are above the line.

All of these were put in at one time or another when the rates were significantly higher. But as we sat in the Finance Committee, we tried to decide what were the things we would be willing to cut out in order to get the rates down to 15 percent for about 85 percent of the taxpayers in this country.

Each member anted up something that he felt very dear about in order to achieve the common good that we have in this bill. Senator MOYNIHAN and I gritted our teeth and said we would give up on the above-the-line

charitable deduction. I gave up on individual capital gains, upon the understanding that the rate could not go above 27 percent. Otherwise, felt capital gains would have to be put back in the bill.

Other Members give up other things. The sales tax deduction was very, very difficult for any number of Members to give up. Senator LONG from Louisiana fought very hard on that issue because Louisiana is a high sales tax State. When all was said and done, everybody gave up something to get the bill we had.

So the question now becomes are we going to start to undo it a bit? And if so why and with what justification? Most people below $20,000 do not itemize. Most people above $30,000 do itemize.

However, for a family of four, you have to be above $42,300 in gross income before you get above the 15-percent rate of taxation; 80 percent of all of Americans fall within the 15-percent bracket.

So the issue becomes this: will people in the 15-percent bracket not donate to the YMCA, to the B'nai B'rith summer camp, to the parish church, because they cannot get a 15-percent deduction? The best research that we can have—and it is very speculative—is that at the low rates that we have set in the bill people are going to give because they believe in something, and they are going to give whether or not they can itemize a deduction.

I have said many times on this floor in the debate on this bill every one of us would like to vote I think to put back in every deduction and not raise the rates. That would be Nirvana, Shangri-la, the best of all possible worlds. But it cannot be done. Under this bill those people who now give to charity but do not itemize will continue to give. They will continue to give because they will have more money to give under this bill. More importantly, they will continue to give because they have the spirit and desire to give.

□ 1040

They will have more money left in their pocket with the low rates under this bill, even if they give to charity, than they have under the current law, making the donation and taking it as an above-the-line deduction and paying the higher rates that now exist.

So time after time after time as we went through the debate in the Finance Committee of what deduction can we cut out—they say the employer business deductions which are now above-the-line deductions have been removed, have a floor under them and moved them to an itemization—as we went through the debate, time after time we were thinking to ourselves if the rates are low enough and people will actually have more money in their pocket, continuing the same behavior that they have done in the past, whether it is applying to IRA's, giving to charity or whatever, will it adversely affect the IRA's and the charities?

The conclusion we came to was no.

I understand the frustration.

There was an interesting poll that appeared about 10 days ago in the paper asking people "Would you rather have" and it listed a variety of popular deductions. "Would you rather have these deductions and higher rates or would you rather lose the deductions and have lower rates, even if it meant you had more money afterward, after you made the contributions?"

The poll was an almost even split, with about half of the people saying they would rather have the deductions because they were used to them.

Mr. President, there is one thing you can say about this bill. At the moment the public is not used to it. This is a radical departure from anything else that we have ever done in the history of the Tax Code.

Senator LONG has said many times that in all the years he has been here in the Senate the idea of cutting rates was anathema. You did not do that. It was a terrible thing to do.

We went through this code and put in exceptions and deductions.

Mr. LONG. If the Senator will yield, I personally was one who thought we ought to reduce rates, but my colleagues did not agree. I recall I submitted an idea to the Finance Committee that helped people keep some money by reducing rates. I was told by a Democratic Senator "You cannot get the votes for that."

The argument was made that a working man needed money more than the man in the upper brackets, and that you could be better off politically by increasing the exemptions than you would by reducing the rate. I thought we should have reduced the rates, and the Senator knows I voted that way on every opportunity.

For a long time we could convince someone to vote for something like the qualified stock option, but we could not convince them to cut the rate. Finally, we got people to thinking in terms of: why not cut the rate?

The Senator has been on the committee on the occasions when we voted several times to bring the rates down. I am pleased to have voted for those rate reductions. But there were times that people thought you could not do that, because you would be considered as helping the rich.

Mr. PACKWOOD. That is the irony. If you wanted to cut the rates, you were accused of helping the rich. We had rates of 94 percent at one time. During World War II the rates were 94 percent. Do you think that anybody who was rich paid 94 percent? Of course they did not pay 95 percent. That is because rather than voting to cut the rate, which we thought was too high, we voted to give all kinds of exemptions and deductions so that nobody paid the top rate. Nobody who is really rich today pays the top rate of 50 percent.

Mr. LONG. At that time we had the excess profits tax. Perhaps you do not recall it, but I am older than the Senator is. The excess profits tax is what started this big need for the qualified pension plan. Back at that time the executives did not have in mind the workers. They started piling up money in retirement funds for their executives. After a while, labor got on to that and they demanded the right to be included in this deal.

Rather than pay 90 percent of their income out in taxes, they would put it away for the workers.

If I might repeat what I told the Senator before, they say that back in those days people met down at the Mayflower Hotel in the cocktail lounge, had a few rounds of drinks, and one said, "I have to go. Let me have the check. I am in a 94-percent tax bracket. It will not cost but 6 cents on the dollar."

The other fellow said, "No, let me have it. I have an expense account. It will not cost me anything."

The other man said, "No, let me have it. I have a cost-plus contract. I can make a 10-percent profit."

That was the feeling back at that time. It started putting lawyers to work finding some way to take a deduction. Of course, the pension plan turned out to be the most acceptable way. I think there may be $1 trillion piled up in pension plans which started back then. Sometimes good things happen for the wrong reasons.

Mr. PACKWOOD. Let me conclude by emphasizing what I have said about the average taxpayer. I understand that you can give examples that are not average. No one is exactly average. All we can do is take these aggregates of millions of taxpayers that make $0 to $10,000; $10,000 to $20,000; $20,000 to $30,000, and ask in the aggregate, how do they behave? In the aggregate, on the average how much do they give?

Under this bill, because we have closed almost $50 billion in individual tax shelters, because we have transferred $100 billion of taxes off of individuals and onto business—that is roughly $150 billion that we can use to lower individual taxes—on the average everybody gets a tax cut. The very poor get the biggest percentage tax cuts, the $0 to $10,000; $10,000 to $20,000, the next biggest ones; $20,000 to $30,000 the next. But everybody gets some tax cut on the average.

On the average, when you add up the tax cuts that you get, as opposed

to the deductions that you had but lose, on the average you end up with more money in your pocket after this bill is passed, even if you keep doing exactly the same thing that you had in terms of buying IRA's or making charitable contributions.

The question really is, What does the public want? Not what does this Senate want but what does the public want? Do we want to leave money in people's pockets and let them decide, "Do I want to give this to the church or the YMCA or invest in stock?" Or do we want to have high rates?

If we have high tax rates, then we have people direct their activities based upon the inducements in the Tax Code. The latter is what we have been doing for the last 50 years. This bill is a radical change. Therefore, I hope this amendment will be defeated. Not because the intent is malevolent. I do not know of anybody who thinks charities are bad. It is because we think charities will be better off under the bill that is before the Senate than with the amendment.

Mr. KASTEN. Mr. President, I want to respond very briefly to the statements of the chairman of the committee. I do not believe that the question before us is as he phrased it, whether or not people are going to donate or not. I think people will continue to make charitable contributions.

The question before us is, by taking away the deduction for nonitemizers, are people likely to donate more or less?

I would say people are likely to donate less by taking away the deduction.

Then the question before the Senate is: Do we want to do that?

I think we do not.

What we want is incentive for charitable contributions. We want incentives to people who will make the contribution to the YMCA, that will make that contribution to the B'nai B'rith summer camp, that charitable contribution that would make the contribution for the parish church.

The point is that the people of this country will not shut down charitable contributions. They will not. But there is no question at all that the bill, as we have it today, will make it less likely, not more likely, that people will make charitable contributions. That is the key.

We do not want to make it less likely. We want to make it more likely because charitable contributions ought to be supported, particularly in this atmosphere of less Federal Government responsibility and more State, local, and voluntary responsibility.

Mr. INOUYE. Will the Senator yield?

Mr. KASTEN. I am pleased to yield to the Senator from Hawaii.

□ 1050

Mr. INOUYE. Is it not true that last year, when the American Cancer Society conducted a survey covering 10,000 households, it clearly demonstrated that with the deduction, contributions were increased by 10 percent; without it, it was reduced by 10 percent.

Mr. KASTEN. The Senator is correct. I would say to the chairman of the Finance Committee, we do not have much evidence in this area and we admitted that in the previous statement. But the limited amount of evidence we have says that by removing the deduction there is less of an incentive and it is less likely the people will make that contribution.

The Senator from Hawaii is correct. I understand it, what they did was a test. The test said, "Send in your contribution" for a certain amount of the mailings or solictation mailings and in the other one they said, "Send in your tax deductible contribution." And, having the voluntary or charitable group be able to say, "Send in your tax deductible contribution," increased their contributions on that particular survey of 10,000 households in three States. By being able to just say, "Send in your tax deductible contribution," they increased their yield by roughly 10 percent.

Now that is significant. And this is not rich or poor. Overall, by being able to send in your tax deductible contribution, they increased their yield by 10 percent. The Senator is correct.

Mr. INOUYE. Is it not also true that, just recently, the most prestigious organization, the National Bureau of Economic Research, considered the current plan before us and said that charitable giving will decline by $12 billion if this measure is passed; 6 of the 12 as a result of the reduction of the rates, but $6 billion of that because of the elimination of the charitable deduction; is that not correct?

Mr. KASTEN. That is correct. The National Bureau of Economic Reseach did come out with those findings. All of the indications are that for sure it is less. And how we can define it, this is just such an attempt to quantify it.

We translated the figure used earlier for the 10,000 households in the American Cancer Society survey and used this same base. What we are saying is a 10-percent increase, if we could have everyone at the higher level, would result in a $6.2 billion increase in contributions over what it would have been by not being able to say, "Send in your charitable contributions."

So right there, we are starting to make up at least part of that difference that the other survey yields. The Senator is correct.

Mr. INOUYE. I thank the Senator.

Mr. KASTEN. I want to point out, also, the recent issue of Time magazine, dated June 16. It rated all of these different tradeoffs that we are attempting to make.

I want to point out to the Senate that this is not a tradeoff. This is not taxes for IRA's This is not business meal deductions for reduction in rates. As the chairman characterized it, we had to reduce the rates; therefore, everyone had to give up a little. I think we should have given up on a number of these areas—business meals, entertainment, credit card loans, et cetera.

The key here is we are not giving up anything except at the very high income levels above $145,000. And it is not a trade for some special interest, it is a trade for charitable contributions for all of this country. America wins if we have more charitable contributions.

So it is not picking from one special interest to another. It is taking from a very high income group, people above $145,000, actually above $161,000, and giving to all of America, because we are going to restore their incentive to make charitable contributions.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, a real test of whether one is sincere about what he is trying to do is whether he is willing to pay a price for it. The chairman of the committee mentioned that everyone on the committee paid some dues in order to bring this bill—which reduces the rates and broadens the base by cutting back or eliminating some of the deductions—to the Senate.

In this particular area, the Senator from Oregon [Mr. PACKWOOD] was the leader. He led the charge to put this deduction in the tax law. He undoubtedly sees fully the merit of it today, as he did then. And it does have a great deal of merit.

I was pleased to support him and vote with him when he fought successfully to put this deduction in the code. It expires under the terms by which it was agreed to. It had a sunset date, so that it would expire in 1986. Congress could extend it if the Congress wished to do so.

The chairman of the committee is now resisting the effort to extend it because he is dedicated today to the belief that, if we did not have so many deductions, people could pay at a lesser rate, and they would have more power of discretion as to whether they really want to contribute or whethr they do not want to contribute.

Only time will tell whether this incentive is of sufficient advantage that it makes a great deal of difference in voluntary giving. Like all Senators, I donate to charity and to religion and education, and I am not planning to cut back one penny in what I do now. I suspect I will do just as well, maybe better, if I have more money left after I pay taxes than I did before. That

will be an individual choice that we will have to find out about. We will just have to see how that works.

So I know the chairman is sincere, in that there are several places in this bill where he has voted for positions that are not popular at all with some of his constituents, just as others have, in order that everyone could have lower rates.

I think that the statesmanship and leadership of our chairman deserves the support of the committee and the support of the Senate. It is not easy to get these lower rates. Somebody has to pay a price for some of this.

The Senator from New Jersey [Mr. BRADLEY] has been laboring in this vineyard for many years. I have seen him face many groups who were very unhappy with him about his efforts, in that their particular deduction—and ones that had merit, may I say—would be eliminated or reduced in favor of lower rates for everybody. And he, like others, have paid their dues to make this bill move to where it is.

I believe at this point that they deserve the support of the Senate, just as they deserved the support of the committee when they brought this measure to us. They knowingly voted to cut back on some things that were very dear to their hearts, allowing everybody in the country to have more money left in their pockets because of the lower rates, and to have more discretion as to whether they want to put it in charity or whether they wanted to put it in education or whether they wanted to put the money into their own personal expenses.

The public generally approves of this. Even though you will find some very wonderful, dedicated people who feel that this incentive is very much needed to get on with the work that they are doing, you will find a lot of other good people who feel that, if they had more freedom to do what they think is right and the money to do it with, it would all work out to the better for all of us.

I believe we ought to support the chairman and the committee in this decision, difficult though it may be for some of us.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, first let me say that there is no Member of this body that I respect more than the distinguished Senator from Hawaii, who is one of the cosponsors of this amendment.

□ 1100

I know that he has worked long and hard for many of those who could benefit from this amendment. But let me say that the Dear Colleague letter which Senator KASTEN, the prime sponsor of the amendment, and Senator INOUYE sent around describing what the amendment would do that they have offered on the floor raised some questions for me. The numbers in the letter were surprising to me actually, and so I asked the Treasury if they could give me their view of the Senators' letter and the issue generally, and I received a letter from the Treasury which I would like to read and comment on in the course of reading that letter. It is addressed to me and it says:

DEAR BILL: You have asked for the Treasury Department's comments on a "Dear Colleague" letter circulated by Senators Inouye and Kasten discussing the charitable contribution deduction for nonitemizing taxpayers. As you know, this deduction would be permitted to expire for taxable years after 1986 under H.R. 3838 as adopted by the Senate Finance Committee.

The letter from Senators Inouye and Kasten asserts that 61 million low and moderate income Americans who did not itemize contributed $22 billion to charities in 1984. We do not know the statistical basis for those figures, and in any event we doubt their relevance. Focusing instead on actual tax return data for 1984, 23 million nonitemizers took charitable contribution deductions totalling about $1 billion. Since the nonitemizer deduction in 1984 was limited to 25 percent of contributions (up to a maximum of $75), the 1984 return data indicate that total contributions from nonitemizers taking the deduction may have been as little as $4 to $5 billion.

In other words, the claim was that 22 billion was contributed. The Treasury says that after they have looked at all the tax returns the most that they can come up with is $4 to $5 billion. The letter goes on:

I would also note that many more low-income contributions be removed from the tax rolls under Tax Reform, so any above-the-line charitable deduction would not affect their charitable giving—

Because they would not be filing any returns, paying tax.

Moreover, nonitemizers tend to be in low-income brackets where researchers have measured relatively low rates of responsiveness to tax incentives for charitable giving. Thus, many nonitemizers will take the deduction with no major change in their giving. As you know, as a whole this group of taxpayers already enjoys a very significant advantage from the rate reductions, increased personal exemption and standard deductions in the Senate Finance Bill.

Then the next paragraph bears on the claim embodied in the exchange between the Senator from Louisiana and the Senator from Wisconsin on how much reduced giving would flow from the elimination of this deduction. The letter goes on:

The letter from Senators Inouye and Kasten also reports that termination of the charitable deduction for nonitemizers would reduce contributions by an estimated $6 billion per year. This figure represents one extreme of an academic literature that is very mixed. Other studies report much lower figures. In any case, there are simulated forecasts rather than actual results, because data are not yet available for the one year (1986) in which all nonitemizers receive unlimited deductions.

In other words, what Treasury is saying is the claim of $6 billion just cannot be substantiated in fact because it is only this year in which the deductions as proposed by the two Senators will in fact be in full force and the data is not available.

It goes on:

In addition, auditing small donations must be recognized as difficult. Obviously, many low income returns will not be audited by the IRS, and thus the taxpayer compliance could be adversely affected.

Finally, based on the application of an analysis by Charles T. Clotfelder to the Treasury Department's taxpayer data base, we believe that the revenue cost of this provision would be double the amount of increased charitable giving—

The revenue cost would be double the amount of additional charitable giving.

Thus, for every dollar of increased charitable giving that might result from allowance of the deduction, the Federal government would lose two dollars in income tax revenue.

So, Mr. President, the letter from Treasury raises serious doubts about the claims that have been made by the proponents of this amendment. And on the last point I would like to expand, that the provision would lose $2 in revenue for every additional dollar in contribution that was generated.

One might say, "Well, how is that possible?" Well, as we know, there are many low-income Americans who make contributions at church every Sunday, put a few dollars in the plate. They have done that for 20, 30, 40, 50 years. They will continue to do that whether there is a tax incentive or not, and they do that because they are committed to their church, because they have strong religious convictions about supporting the work of their particular belief.

Now, what about another group? Well, once you have told people that you can have a deduction even though you do not itemize, there will inevitably be some individuals who will claim a deduction even though they do not give. And then there is the third group, the third group that, because they will be able to deduct their contributions, does make the contribution. But if you combine the three groups, you see that you lose $2 in tax revenues for every $1 of additional giving.

Now, Mr. President, if the sponsors of this amendment were serious about low-income Americans, as they have stated that they are, why the floor of $200? Why should not someone who goes to church every Sunday and puts a couple of dollars in the plate be as good as someone who does not itemize but puts $400 or $500 in contributions?

Mr. President, when you consider that one-half of nonitemizers give less than $100 a year, this amendment leaves them out. This amendment leaves out of the picture all of those low-income individuals who cannot meet the $20 threshold but who are committed to give. This amendment, in other words, is not a charitable contribution for hard-working, low-income, moderate-income people in this country. This amendment specifically excludes them from the benefit of this deduction.

So, Mr. President, let me say that you lose $2 for every $1 of additional contribution. Second, you exclude most low-income Americans in this amendment by putting the floor at $200. And third, Mr. President, we get to how they pay for this amendment. Now, on the surface it sounds relatively harmless. What we are going to do, they say, is phase out the exemption at a lower rate and that is the way we get the $900 million, never mind that Treasury says it is going to be $900 million, but that is what they say.

□ 1110

Mr. President, what is the effect of this on the issue of what we are trying to accomplish in this bill—the rates? What is the effect on the rates if you phase out the deduction at a lower figure? As you know, because we phase out the exemption now, the effective marginal rate is about 32 percent on income levels from $75,000 to about $194,000. But what would be the effect of phasing out the exemption at a lower rate?

Under the Kasten amendment, a family of four would have a marginal rate of $40,000 on taxable income of about $100,000—a marginal rate of 40 percent. A family of eight would have a top marginal rate of 53 percent on taxable income of about $100,000. So the argument that this is a harmless way to pay runs counter to the whole magic of this bill.

You reinstitute for a family of four, with about $150,000, a marginal rate of 40 percent; a family of eight, a marginal rate of 53 percent.

Mr. President, let us also consider how this interacts with capital gains. Any capital gains that these families would have would be taxed at 40 percent and 53 percent.

I understand the sentiments of the Senator from Hawaii and the Senator from Wisconsin, and I really do not know if it was the purpose of the Senator from Wisconsin to raise the capital gains rate to 53 percent. I do not know if it was the purpose to raise the tax rate to 40 percent.

I hope that before we adopt this amendment, we will think carefully about what this amendment does to the rate structure, that we will carefully look at why low-income Americans were excluded from benefiting from this deduction, and that we will recognize that it loses $2 in tax revenue for every $1 of additional contribution.

Mr. KASTEN. Mr. President, I would like to engage in a discussion or a colloquy, back and forth, about trying to work out this whole area of Treasury estimates in these different studies. I know that the Senator has been involved in this question for a number of years.

Is the Senator from New Jersey aware that the Treasury estimates of Treasury I were that there would be a loss in charitable giving under Treasury I. The Treasury estimated that the loss was going to be almost $10 billion a year, and that the data on which they developed that was the Independent Sector data? Treasury I indicated—this is going back a couple of years ago—$10 billion.

Mr. BRADLEY. The Senator from Hawaii gave the answer to that question in his colloquy. The reduction in charitable contributions is largely a result of reduction in the rate.

I am sure that the Senator from Wisconsin does not want to argue that we should have a very high rate of tax in order to encourage some charitable contributions.

As the Senator from Hawaii said, $6 billion in reduced contributions comes because of the tax rate, and Treasury I made the same point.

When you reduce the tax rate, the value of the deduction is less—but not for the low-income person. It is a rate of 15 percent or 11 percent under current law. But where it is reduced, it is for the upper-income person. This amendment does not address itself to upper-income contributions.

Mr. KASTEN. The Senator is aware that the Treasury did estimate this huge loss. The Senator may be correct with his upper or lower income, but the point is that half of the $12 billion—$6 billion—is directly through this loss in deductions.

Mr. BRADLEY. I do not agree with the Senator that $6 billion is a result of the loss of the nonitemized charitable contribution. There is no data to illustrate that, because we could not possibly have data, because the nonitemized charitable contribution was not fully in effect until 1986.

Mr. KASTEN. I am going to come to that point, because the study referred to earlier by the Senator from New Jersey was the 1983 study that he was trying to use to make his point.

Let me say, to answer this question on the effect of deductibility, that research from a group called Independent Sector, which provided the data for the Treasury when they did the research on Treasury I, on the $10 billion loss, stated as follows:

The term "above-the-line" refers to the charitable deduction for nonitemizers. As you can see, the total gain to charitable giving if the nonitemizer deduction was included in the Packwood proposal would be $5.86 billion.

The other point I want to make is that the study that the Senator referred to, the so-called Gabriel Rudney study, was a study that we were using 2 years ago when we were working on Bradley, Gephardt, Kemp, Kasten, Treasury I. We went to those studies. That study was dated the 26th of November 1983. They were using 1982 figures, or figures from even earlier. That was before the nonitemizer charitable deduction was in place.

So we never, in that particular study, were able to recognize the fact that the Packwood-Moynihan effort was in place, which they were looking at before we had given all taxpayers the opportunity to make a charitable contribution. So to go back and say, "Look to studies before we took a step forward," I do not think make sense.

The question here is not whether or not taking the deduction away is going to increase or decrease charitable contributions. It seems now that everyone agrees that eliminating the deduction is going to provide a disincentive. The only question we are arguing about is whether or not that disincentive is important.

We will agree that without the charitable contribution being able to be itemized by all contributors, charitable contributions are going to go down. The question is by how much, and what is the trade-off? I believe it is significant. It might be 6.2; it might be 10; it might even be more. We do not know. But the point is that it is less.

Then the question we have before us is this: If we want to have incentives for charitable contributions in this country, what do we want to trade? Higher rates? No. Tax reform? No. Let us trade a very simple part to phase out of the $2,000 exemption. I think that trade is a good one. We ought to maintain charitable contributions.

I yield the floor.

Mr. BRADLEY. So the Senator believes that the capital gains rate should be about 40 percent, because, in effect, the capital gains rate on taxable incomes of more than $100,000 would be 40 percent for a family of four. I thought the Senator wanted to get tax rates down, not up.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I received a lot of advice not to come to the floor today and speak on this issue, and I got it from all my United Ways and all the nonprofit organizations I have supported in the past, for my efforts in support of the above-the-line charitable deduction, for volunteer mileage, for all the things that a lot of us on the Finance Committee have done together to improve the way in which the nonprofit

delivery system in this country has met the needs of both the disadvantaged and those who serve the disadvantaged.

□ 1120

I thought about it for long time. I thought, well I have been at this now for 7½ years in the Senate and I was at it a long time before that. Maybe I should come to the floor and try to answer the question of whatever happened to BOB PACKWOOD and PAT MOYNIHAN.

When I came here in 1979 and joined the Finance Committee, I was looking for some leadership in the area of facilitating the unique delivery system for public services we have in this country called the nonprofit and the independent sector.

I was not on the Finance Committee more than a couple of seconds, when I found the leadership on both sides of the aisle, and I found it in a lot of other places, and I do not want to be too selective here, but in particular, with PAT MOYNIHAN and BOB PACKWOOD.

If I can, Mr. President, I would like to take a few minutes, and from my perspective, try to answer the question not on their behalf, but maybe on my own behalf, just why it is that the Senator from Oregon and the Senator from New York are urging the Senate to support this tax reform bill and why they were here in 1981 urging on the Senate and on Congress a piece of temporary experimental legislation that would allow all taxpayers, itemizers and nonitemizers alike, a tax deduction for charitable contributions. Yet today they seem to be taking a different position.

Why did we try this experiment in 1981?

Mr. President, I would venture to say, and I have gone back and done a little of my own reading of what I had to say on the subject in those days, I think we did it at a time when many voluntary and charitable organizations had incurred a steady and dangerous decline in funds available to them. Why were these nonprofit organizations in such desperate shape in 1980 and 1981? Because they suffered from the ravages of inflation along with the rest of this Nation. People who wanted to contribute to their church or favorite charity or the United Way, could no longer justify those contributions not when the price of essentials for their families, the essentials of daily living, shelter, food, clothing, education, and health care had risen so rapidly and so far in such a short period of time in the 1970's.

Inflation had eroded the purchasing power of the contributions which foundations and charities had received. Their dollar bought less just as yours and mine bought less. At the same time, that inflation dampened giving and undermined purchasing power, it increased the numbers and the needs of the poor, the unemployed, the elderly, and others who foundations and volunteer organizations set out to help. These organizations, in effect, in 1980 and 1981 were asked to do more and more with less and less.

Mr. President, I went back and I am going to take the liberty of reading to you and my colleagues a part of a speech that I delivered at the end of the 1981 session on October 23, 1981, to be precise, to an organization which the Senator from Wisconsin has appropriately designated as one of the most significant contributors to the nonprofit sector in America, and that is the independent sector. In part, I said this:

If I were asked to put a title on the first part of my speech, I think I would call it "Where's the Whammy?" I make reference, of course, to a press release of this organization dated August 27, 1981, that characterized President Reagan's Economic Recovery Program as a "triple whammy" for the Independent Sector. Let me read a portion of that press release:

"Charitable giving is likely to be $18 billion less over the next four years as a result of the Tax Act recently signed into law by President Reagan.* * *

"The Impacts of the Tax Legislation are all the more significant coming as they do on top of the pressure that will be put on non-profit organizations as a consequence of the other half of the Economic Recovery Program.* * *

"As a result of budget reductions, nonprofit organizations will lose $27 billion over the 1981-1984 period. Taken together the budget and tax portions of the Economic Recovery Program are projected to cost non-profit organizations at least $45.6 billion.* * *

"Brian O'Connell"—who is the esteemed and sometimes almost revered executive of the organization—"characterized the impact on voluntary organizations as a 'triple whammy.' He explained, 'federal program support has already been cut, contributions are now projected to go down and all this at a time when everyone is looking to these same organizations to expand their services.'"

That was the expectation of the independent sector at the time that inflation was killing them and it looked as through the Reagan economic recovery that we all participated in was doing the same thing. I will continue with my comments of October 23, 1981.

Reading that, I thought to call Brian and ask where the memorial service was being held. But I take it you haven't gathered here to bury the Independent Sector. You came to rededicate its role in our future.

There will be a lot of gnashing and gnawing over these statistics—arguments about assumptions and projections and tax effects. That debate will largely miss the point.

Let us suppose that the President and the Congress had not passed the Economic Recovery Program and that inflation rates had continued at 10, 12, 15 percent per year. Let us suppose that the President and the Congress had not formed a partnership to create new investment, new jobs, and economic growth. What would the next four years promise to our non-profit organizations and to those who depend on them for services?

The third sector—the non-profit side of our society—spends about $100 billion a year. Keeping up with inflation at present rates for four years would require $50 billion in additional revenues each year by 1984. That is not a cumulative $45.6 billion over 4 years. That is $50 billion in new revenue each year just to keep up.

And while programs might keep pace with an infusion of $50 billion, the need in society stagnated by inflation, high interest rates and high unemployment—the need for the services your organizations provide—would jump out-of-sight, beyond even the capacity of a Federal treasury seven times your current $100 billion.

Without the Economic Recovery Program, it would have been time for a memorial service. We would bury all three sectors at once.

One whammy, the budget cuts. A second whammy, the tax cuts. A third whammy, the expectation that the non-profit sector will fill the gap created by federal retrenchment.

We in Congress did not create the gap. What we have done in the last 5 years, Mr. President, is stop the galloping growth in public programs that threatened to bankrupt not only the Nation but the independent sector itself.

By doing so we have narrowed the gap between what is needed this year and what will be needed next year.

Mr. President, I find it essential to remind our colleagues both within this body and outside this body that in the 5 years that have passed since I delivered that speech the American economy has weathered the storm of inflation. It has settled into a period of steady growth and a period of little or no inflation, and during the past 5 years the vast majority of the American public has shared its wealth with the less fortunate who have not enjoyed the benefits of the 1980's prosperity.

Charitable contributions have reached record levels in recent years. Donations by individuals topped $66 billion in 1985, which is up from $40.7 billion, 5 years earlier. But it is important in that regard to note that the level of giving, as a percent of income, has stayed relatively constant in the 1980's and is far below levels attained throughout the 1960's and early 1970's.

Standing on its own merits, I believe the decision to make the nonitemizer charitable deduction permanent would be adopted unanimously by the Senate. And I would be willing to lead the fight against those who would kill this deduction. Just as I led the fight to increase the volunteer mileage allowance and to reform foundation rules, I would not shirk my responsibilities regarding the nonitemizer deduction.

But this issue is not being judged in isolation. The decision to vote for or against this amendment must be reviewed in the context of the revolutionary tax reform bill crafted by the Finance Committee. And in that context, I must vote against this amendment.

There are many reasons I believe that this tax reform bill will encourage even greater charitable giving by the American people. This bill will put more money in the pockets of all Americans, where it belongs.

□ 1130

And most importantly, it will diminish the financial stresses of the poorest members of our society, those most in need of social services. This bill nearly doubles the personal exemption from $1,080 to $2,000, and it increases vastly the standard deduction, not just from $3,500 to $5,000, but it substantially increases the value of not itemizing for the two-thirds of Americans who do not itemize. Itemizers have had their deductions devalued by the elimination of the consumer interest deduction, miscellaneous deductions, and the higher threshold for medical deductions.

This bill removes nearly 6 million people from the tax rolls and by radically cutting tax rates provides the greatest incentive for Americans to work harder. In fashioning this bill, we have maintained two of the most powerful incentives to continue donations to charity. Under this bill, itemizers will continue to receive a full tax deduction for their contributions and the importance of retaining full deductibility for itemizers is reflected by the fact that more than 70 percent of charitable contributions comes from the one-third of the families in this country who itemize their deductions.

Second, we have ended a threat to hospitals, universities, and other nonprofit institutions that gifts of appreciated property would be included in the minimum tax base. Organizations which take on the job of educating or providing health care to many poor Americans without cost or with little reimbursement have been substantially advantaged by this provision in the current Tax Code.

President Reagan's tax reform plan, as we all know, raised the threat of taxing gifts of appreciated properties. The House bill carried it out. And the Finance Committee has ended that threat, and hopefully will continue to see that it is not a threat in conference.

Mr. President, in the space of less than 5 years we have totally reshaped the contours of the Tax Code. We have brought the top rate of tax down from 70 to 27 percent, and we have ended special tax subsidies for various sectors of the economy. The ability of nonprofit hospitals, and other charitable organizations in this country to finance their operations is significantly improved by the terms of this bill.

Health care organizations will be able to issue more tax-exempt bonds to finance new medical equipment, and small hospitals will reduce their equipment costs by issuing tax-exempt bonds together with other small hospitals. We provided the flexibility for health care providers to remodel existing facilities to provide more efficient and less expensive services to the public. They can get less expensive tax-exempt financing for ambulatory care facilities and for outpatient surgery centers that are so vital in remote areas of this country.

In addition, Mr. President, this bill will allow all nonprofit organizations in this country to offer their employees incentives presently available only to the for-profit employer, such as the attractive fringe benefit known as the section 401(k) plans cash or deferred plan.

So, Mr. President, our philosophy of the Tax Code has undergone a radical shift in 5 years. ERTA represented the high point in the philosophy, that the purpose of the code is to encourage certain types of behavior. Underlying the philosophy of ERTA, the Tax Act of 1981, was the belief that Congress through the Tax Code should shape society's economic and personal choices.

The tax bill we are considering today is far different in philosophy from ERTA. It places greater trust in the wisdom of the people of this country as to how they will invest, how they will spend, and how they will contribute their money. I believe the American people to be the most compassionate and charitable people on the fact of this Earth. Our colleagues who propose this amendment ask us what about the incentives? Where are the incentives?

Mr. President, we in Washington should not be so cynical as to believe that the people of America will give only to charity, or the only reason they will give to charity is because they get a tax break.

We give to charity because it is our nature as a people to help the less fortunate. The roots of this Nation derived from immigrant poverty, and our high level of charitable giving will always recognize how far all of us have come since our ancestors came to this country to start a new life. There is no question, however, as the proponents of the amendment have argued that you can increase contributions by 10 percent, not by the deduction but by advertising the deduction. Those are two very different things.

I think if we advertise the quality of our services to those who desperately need them at a time when they need them, we can accomplish the same thing.

Mr. President, I am convinced that when ordinary citizens in this country have the ability to give to charity, they will give to charity. And they will do that because of their compassion, not because of the tax benefit. As the philosopher Martin Buber once said:

> God has willed that there be two hands in the matter of charity: one that gives and one that receives. Thank God that yours is the hand that gives. The giver has the upper, the receiver the lower hand. Consider how much you ought to thank Him for granting you the upper hand.

Mr. President, I trust that the American people reflecting that good judgment and that good fortune will continue their long tradition of helping the less fortunate. This legislation reflects our trust in the good judgment of the American people.

I believe this is not the last we will hear of the non-itemizer deduction. We may come back to this in the near future. In fact, I think we will.

I believe Mr. President, that true tax reform is born, not just refined this year. In the future we will either go to a flat tax on individuals with no deductions, an idea that not even BILL BRADLEY has proposed. And the public will have to decide what role the Federal Government will play in relation to many no-profit activities, including housing for the poor and health care for all citizens.

It is my view that we are laying the foundation to reconsider the concept of above-the-line deductions. I hope we can reconsider this issue when we, one day soon, allow all taxpayers a nonitemizer deduction to pay their health insurance costs.

Finally, Mr. President, I would like to address the inequity of the amendment under consideration.

This amendment does not treat all nonitemizing taxpayers fairly. When we adopted the nonitemizer deduction in 1981, we made the deduction available to all nonitemizers. However, this amendment discriminates against those who would like to give more to charity, but just can't afford to. It only allows the deduction for contributions above $200.

What about the small Minnesota farmer who can only afford to give $50 of his hard earned money to help others less fortunate. He gets no deduction! Where is the fairness and equity of a proposal that denies the small contributor, the one who just can't afford to give more than $200 to charity, any tax benefit, but gives those wealthy enough to give more than $200 a tax break? For these reasons, I must oppose this amendment.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I would like to make a few observations.

Mr. President, I am certain that Americans are generous people, and

whether we have deductions or no deductions, itemized or otherwise, Americans will continue to contribute to charitable causes. They will continue to contribute to charitable causes. They will continue to go to the churches and fill the plate with their dollar bills. But the question is not whether Americans will continue to give or not give. We all agree that they will continue to give. But with this deduction, all studies indicate that they will give more.

Yesterday, together with the majority of my colleagues, I voted to uphold a provision in this tax bill that benefits gas and oil producers because, like the majority, I felt that this was in the national interest; that the national security was involved.

The dollar amount of that proposal was in excess of $1.5 billion. The dollar amount in this amendment is less than $1 billion. Mr. President, I would like to suggest that this, too, is in our national interest. It affects millions of Americans who look upon philanthropic organizations for sustenance, support for education, health research, and religious education.

Mr. President, I hope that our colleagues will for once give some aid to those because after all with Gramm-Rudman we have been doing our best to cut down whatever few dollars we have been providing for the people of the United States.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, we have heard a lot during this debate about what we think the charitable organizations will think or what we think the charitable givers will think. I would like to simply point out what they say and what they think.

Supporting the Kasten-Inouye amendment are hundreds upon hundreds of people who have been out soliciting charitable contributions, who have watched the changes from 1981 to 1983, who have taken into consideration the fact that as overall rates will drop there will be fewer people who choose to itemize, and the incentives for charitable contributions.

I would simply like to say to my colleagues they are unanimous—"they," the people who are actually in the business to try to work the private and independent sector are unanimous in support of our amendment:

Let me read them into the RECORD:

Agudath Israel of America.
Alliance of Independent Colleges of Art.
ALS Association.
Alton Ochsner Medical Foundation.
American Arts Alliance.
American Association of Fund Raising Counsel, Inc.
American Association of Museums.
American Association of Public Television Stations.
American Association of State Colleges and Universities.
American Association on Mental Deficiency.
American Baptist Churches USA.
American Cancer Society.
American Cancer Society—Arkansas Division.
American Cancer Society—Connecticut Division.
American Cancer Society—Indiana Division.
American Cancer Society—Wyoming.
American Council for Judaism.
American Council for the Arts.
American Council of the Blind.
American Diabetes Association.
American Foundation for the Blind.
American Leadership Forum.
American Leprosy Missions.
American Lung Association.
American Red Cross.
Americans for Indian Opportunity.
Appalachian Mountain Club.
Arthritis Foundation.
ASPIRA of America.
Associated Catholic Charities of New Orleans.
Association of American Universities.
Atlanta Jewish Welfare Federation, Inc.
Boricua College.
Boy Scouts of America.
Boys Clubs of America.
Camp Fire, Inc.
Cancer Care, Inc. and the National Cancer Foundation, Inc.
Catholic Charities and Community Services—Colorado.
Catholic Charities of Diocese of Fargo, North Dakota.
Catholic Charities USA.
Catholic Social Services for Montana, Inc.
Center for Non-Profit Corporations, Inc.
Child and Family Services.
Child Welfare League.
Christian Church Foundation.
Christian Ministries Management Association.
Colonial Williamsburg Federation.
Community Chest Council of Cincinnati.
Community Planning Council of Greenville County, South Carolina.
Consumers Union.
Council for Advancement and Support of Education.
Council of Independent Colleges.
Council of Jewish Federations.
Deborah Heart and Lung Association (NJ).
Deborah Hospital Foundation.
Geraldine R. Dodge Foundation.
William H. Donner Foundation.
Environmental Fund.
Environmental Policy Institute.
Epilepsy Foundation of America.
The Experiment in International Living.
Family Life Center Inc. (MD).
Farms International, Inc.
Father Flanagan's Boys Home—Boystown, Nebraska.
Federation of Catholic Community Services—Diocese of Cleveland.
Foundation for Children with Learning Disabilities.
The Fund Raising School.
General Conference of Seventh-Day Adventists.
Morris Goldseker Foundation of Maryland.
Goodwill Industries of America.
Grantsector Management Inc.
Greater Hartford Jewish Federation.
Greater Knoxville Area Epilepsy Foundation.
Heublein Foundation.
Huntington's Disease Foundation of America.
Independent College Funds of America.
Indianapolis Jewish Welfare Federation, Inc.
Interaction.
International Christian Youth Exchange.
Jefferson City Area United Way.
Jewish Federation of Greater Los Angeles.
Jewish Federation of Memphis.
Jewish War Veterans of the USA.
JWB.
Junior League of Schenectady, Inc.
Keep America Beautiful Inc.
The Kennedy Institute for Handicapped Children.
Kimball Medical Center Foundation, Inc.
League of Conservation Voters.
March of Dimes Birth Defects Foundation.
John and Mary R. Markle Foundation.
Maryland Food Committee.
Massachusetts Association for Mental Health.
James G. K. McClure Education & Development Fund.
Meals on Wheels of Central Maryland.
Mental Health Association in DuPage (IL).
Metro Association for Philanthropy.
Metropolitan YMCA of Oklahoma City.
Mid-Iowa Community Action.
Minneapolis Charities Review Council.
Morgan Memorial Goodwill Industries.
Museum Council of New Jersey.
National Assembly of State Arts Agencies.
National Association for Hospital Development.
National Association of Independent Colleges and Universities.
National Board of YMCA.
National Board of YWCA.
National Corporate Fund for Dance, Inc.
National Council for Families and Television.
National Council of Jewish Women.
National Easter Seal Society.
National Federation of State Humanities Councils.
National 4-H Council.
National Image, Inc.
National Jewish Center for Immunology and Respiratory Medicine.
National Mental Health Association.
National Multiple Sclerosis Society.
National Network of Runaway & Youth Services, Inc.
National Parks and Conservation Association.
National Society for Children and Adults with Autism.
National Society of Fund Raising Executives.
National Trust for Historic Preservation.
National Urban League.
National Wildlife Federation.
New Haven Foundation.
Nonprofit Coordinating Committee of New York.
Nonprofit Mailers Federation.
NOW Legal Defense and Education Fund.
Ohio Citizen's Council.
Ohio Hospital Association.
Peat, Marwick, Mitchell & Co.
Permanent Charities Committee of Entertainment Industry.
Pittsburgh Family and Children Services.
Planned Parenthood of Maryland.
Preservation Action.
Public Education Fund.
Resolve, Inc.
Sid Richardson Foundation.
St. Vincent Medical Foundation.
Southern Methodist University.

W. Clement and Jessie V. Stone Foundation.
Support Center Network.
Texas Hospital Association.
Texas Methodist Foundation.
Theatre Communications Group.
United Cerebral Palsy Association, Inc.
United Community Services.
United Foundation.
United Methodist Charities of West Virginia.
United Methodist Foundation.
United Way of America.
United Way of California.
United Way of Dayton.
United Way of Greater St. Louis.
United Way of Greater Topeka.
United Way of Metropolitan Atlanta.
United Way of Metropolitan Chicago.
United Way of Southeastern Pennsylvania.
United Way of Toledo.
Wain Foundation.
World Vision Relief Organization.
Zero Population Growth.
Zionist Organization of America—Baltimore District.

□ 1140

I have gone through and mentioned these people know more about charitable deductions and charitable contributions than we do. These people are there trying to help in the private sector. There is no question that by removing this deduction we are going to remove an incentive. The question is, By how much?

I feel we cannot afford to remove the incentive. I feel that we ought to take the advice and guidance of the people who are today trying to raise money for the private and independent sector, for church groups, for volunteer groups, for people all across our land, who are acting, in concert with the overall thrust of this administration, the overall thrust of this Senate and House of Representatives, which is saying we want to rely more, not less, on private agencies. We want to rely more, not less, on volunteer effort. We want to rely more, not less, on nonprofit kinds of help. We are not going to rely on the Federal Government for everything. We are not going to rely on the Federal Government, Federal agencies, and Federal laws. We are going to reduce the intrusion of Federal Government and we are going to rely more on the private sector.

These people are in the business of, if you will, creating the foundation and backbone of that private sector. They have reviewed the situation. They have looked at the amendment. They believe that this amendment should pass. I also believe it should. I hope we will have a favorable vote.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, this is like asking the National Venture Capital Association whether or not they want to keep capital gains. Of course they do. I am referring to the list that the Senator read. But those are people who have been raising funds in the field. They cannot imagine living under any other circumstances.

This bill is a change of circumstances so radical that anything that went before simply cannot be compared in the same breath. It is one thing to ask somebody to give money to charity when the tax rate is 90 percent. "Sure, the Federal Government will pay 90 percent of it, why not give?"

Interestingly, charitable giving in this country has gone up in the last 5 years in the upper income group more dramatically than the cost of living or the gross national product even though their tax rates have come down. As their tax rates have come down and they have slightly more money in their pockets, they become more generous with charity.

Now the question is: Will those who are nonitemizers feel as good about their country as those who itemize?

I say again that with the low rates people will have more money in their pocket to give to charity.

I hate to think that what my good friend from Wisconsin and my good friend from Hawaii are saying is that people are so mean spirited, especially those in the low-income brackets who do not itemize, that they will give less to charity even though they are going to have more money.

I hope they give because they believe, because they love, because they care. This is a caring country.

These charities will thrive and prosper under this bill more than they have thrived and prospered under the current code with higher rates. I would hope very much, therefore, that the Senate would table this amendment. I will move to table it if there are no other comments or debate.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Let me say that I appreciate the effort made by the Senator from Hawaii and the Senator from Wisconsin. I am sorry that the amendment chose to exclude low- and moderate-income contributors by having a $200 floor. The vast majority of low- and moderate-income contributors will be excluded from using this deduction.

I am also surprised that the way they decided to pay for it is by raising the tax rate on a family of four, 40 percent. That means an increase in the capital gains rate of 40 percent, or for a larger family, a family of eight, 53 percent.

Mr. President, I understand their motivation. I just think this is not the appropriate way.

FAIRNESS FOR CHARITABLE CONTRIBUTORS

Mr. BUMPERS. Mr. President, one of the outstanding attributes of our society is the way in which our citizens contribute to and become involved in charitable causes. Many societies rely primarily on Government to take care of the needy, but in America we see it as everyone's responsibilities to become involved, either with charitable giving or volunteer efforts. The rewards, both to the giver and the recipient, fully justify the current tax incentives which the Government provides for charitable giving.

It is ironic that this tax reform bill—which has so many good provisions for the needy in our society—would fail to extend one of the most effective tax incentive for charitable giving, the deduction for charitable contributions by taxpayers who do not itemize their deductions. Indeed, since 1981 we have made only two deductions available to taxpayers who do not itemize—the deduction for charitable contributions and the deduction for contributions to an IRA—and this tax reform bill would eliminate both of them. This is not fair and I oppose the bill on both points.

I am happy to have cosponsored S. 361 which would make the deduction for nonitemizers permanent, instead of permitting it to expire at the end of this year. The decision of the Finance Committee not to extend this deduction is inconsistent with its decision to give people living at or below the poverty level the tax cut they so desperately need.

In Arkansas, this is a particulary important issue as there are only six States which have fewer nonitemizing taxpayers than does Arkansas. Only 30.9 percent of the taxpayers in Arkansas itemize their deductions. So, this issue affects 69.1 percent of the taxpayers in Arkansas. Their contributions are just as important as those made by taxpayers who itemize their deductions and we need to extend the current deduction for their charitable contributions.

Nationwide 42 percent of the Nation's 61,000,000 nonitemizing taxpayers current claim the deduction for charitable giving and they contribute $22 billion to charitable organizations, 36 percent of the total amount contributed by all taxpayers. These contributions help finance our religious institutions, education, social and health services, and cultural projects. It is projected that charitable giving to these organizations might fall 15.7 percent should the current nonitemizer deduction be permitted to lapse.

The pending proposal to extend the nonitemizer deduction for contributions above $200 may prove an even greater incentive for giving than the current law, which applies to all giving. We should provide the incentive for individuals who make the greatest contribution and we should encourage people to give more than minimal amounts. The deduction for

contributions over $200 may well provide this special incentive and it will do much to meet the Treasury Department's concern that it cannot audit deductions for very small contributions.

This country is built on a partnership between the public and private sectors. We should not rely on Government to meet our every need. The creativity and energy which private charitable organizations provide is healthy and we should not reduce the current incentives for it. This is particularly true at a time when there are so many painful cutbacks in the services which Government does provide.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. Mr. President, I move to lay the amendment of the Senator from Wisconsin on the table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to lay on the table the amendment of the Senator from Wisconsin. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Florida [Mrs. HAWKINS], and the Senator from South Dakota [Mr. PRESSLER] are necessarily absent.

I further announce that, if present and voting, the Senator from Florida [Mrs. HAWKINS] would vote "nay."

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN] and the Senator from New Jersey [Mr. LAUTENBERG] are necessarily absent.

The PRESIDING OFFICER (Mr. HECHT). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 44, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—51

Baucus	Grassley	Nickles
Bentsen	Hart	Packwood
Boren	Hatch	Proxmire
Boschwitz	Hatfield	Pryor
Bradley	Helms	Quayle
Chafee	Johnston	Rockefeller
Cohen	Kassebaum	Roth
Danforth	Kennedy	Rudman
Dodd	Kerry	Simpson
Dole	Long	Stafford
Domenici	Lugar	Stennis
Durenberger	Matsunaga	Stevens
Eagleton	Mattingly	Symms
Evans	McClure	Thurmond
Goldwater	McConnell	Trible
Gorton	Moynihan	Wallop
Gramm	Murkowski	Warner

NAYS—44

Abdnor	Exon	Mathias
Andrews	Ford	Melcher
Armstrong	Glenn	Metzenbaum
Bingaman	Gore	Mitchell
Bumpers	Harkin	Nunn
Burdick	Hecht	Pell
Byrd	Heflin	Riegle
Chiles	Heinz	Sarbanes
Cochran	Hollings	Sasser
Cranston	Humphrey	Simon
D'Amato	Inouye	Specter
DeConcini	Kasten	Weicker
Denton	Laxalt	Wilson
Dixon	Leahy	Zorinsky
East	Levin	

NOT VOTING—5

Biden	Hawkins	Pressler
Garn	Lautenberg	

So the motion to lay on the table amendment No. 2077 was agreed to.

□ 1210

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BABY CALVIN

Mr. FORD. Mr. President, last night I called the attention of the Senate to the plight of Baby Calvin, an infant in a Kentucky hospital that could die at anytime without a new heart.

I am pleased to report today that a new heart was found for Baby Calvin and that he successfully underwent surgery this morning at Louisville's Kosair Children's Hospital.

Mr. President, publicity has a great deal to do with this child being alive at this hour. Newspaper, television, and radio coverage of a similar case in California had a great deal to do with Baby Jesse being alive today. Jesse and Calvin were born with the same kind of fatal heart defect.

Though it's a testament to the power and responsibility of the press that the country learned about these two children in peril in time for transplant hearts to be found, it strikes me, Mr. President, as a hit or miss way for such life and death questions to be determined.

A year and a half ago, Congress approved an alternative way to deal with this question. It is called the National Organ Transplantation Act of 1984. It instructs the Health and Human Services Department to set up a national organ matching and referral network and Federal grants to organ procurement agencies to increase the supplies of donated organs available at the critical moments they are needed. Three million dollars was appropriated for this purpose.

I understand, Mr. President, that the Health and Human Services Department has been dragging its feet. It will not get the organ transplant network into operation for several additional months. And it is just now advertising the availability of Federal funds to assist organ procurement agencies. Mr. President, I hope the press that has done such a good job at the critical moments for Baby Calvin and Baby Jesse will now turn its attention to this situation.

Mr. LEVIN. Mr. President, will the Senator yield?

Mr. FORD. I yield.

Mr. LEVIN. Mr. President, I want to thank the Senator from Kentucky for focusing the attention of this body and this country on the needs of a baby.

We are in the middle of a critical debate on a tax bill. What is also critical is the life and death of our children and our citizens. The Senator is very, very wise and courageous and right in telling the Senate and the country: "Let us pause for a moment and look at our policy with respect to organ transplant."

We have now, we hope, saved the life of Baby Calvin, to whom the Senator from Kentucky called our attention yesterday; and, with the grace of God, we will save many young lives and older lives which are hanging in the balance. We must move quickly in the direction the Senator from Kentucky has pointed us.

We are all grateful to the Senator from Kentucky for what he is doing.

Mr. FORD. Mr. President, I thank the distinguished Senator from Michigan, and I compliment him for the work he is doing with the military in this particular endeavor.

What we do here for tax reform, whatever we do for the future, is significant. But to have a life available, to take advantage of what we do here, is more important, in my opinion.

I thank the distinguished Senator from Michigan.

OPPOSING THE CHILEAN TORTURE SHIP "ESMERALDA'S" PARTICIPATION IN THE JULY 4 LIBERTY WEEKEND CELEBRATION

Mr. KENNEDY. Mr. President, I send to the desk a joint resolution on behalf of myself and Senators DOLE, LUGAR, INOUYE, MOYNIHAN, PELL, HARKIN, and METZENBAUM.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S.J. Res. 361) opposing the participation of the Chilean vessel *Esmeralda* in the July 4 Liberty weekend celebration.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. KENNEDY. Mr. President, Although it has not always been so, the

Esmeralda today is a ship of shame. It was the site of one of the cruelest chapters in the history of Chile—the brutal torture of over 100 men and women by Chilean authorities in the aftermath of the bloody coup by General Pinochet in September 1973. Because of this heritage of horror, the *Esmeralda* is a continuing symbol of the repression which persists in Chile to this day.

The Statue of Liberty would weep at the sight of the *Esmeralda* entering the gateway of freedom at New York Harbor. This ship is the antithesis of American freedom and should not be permitted to participate in the celebration of America's liberty and democracy.

Nothing in this resolution is intended to detract from the noble heritage of the *Esmeralda* before the tragic events of September 1973. For generations prior to that date, Chile was renowned as one of the most stable and democratic nations in South America.

The name *Esmeralda* itself has a distinguished heritage in Chilean naval history. The original *Esmeralda* was a Spanish frigate captured by Chilean patriots and commissioned in the Chilean Navy in the war for independence at the beginning of the 19th century. The present ship was built in 1952 as a training vessel to carry on the proud tradition of seamanship in the Chilean Navy.

But on September 11, 1973, a military junta led by Gen. Augusto Pinochet staged a bloody military coup, crushed Chilean democracy, and installed the repressive regime that has ruled in Chile ever since.

On the same day that General Pinochet seized power, the junta rounded up 40 men and 72 women and held them naked in the dungeons of the *Esmeralda*. The prisoners were subjected to brutal torture and interrogation. For a period of nearly 2 weeks, they were beaten, tortured, subjected to electric shock, mock execution, sleep deprivation, and sexual abuse. Throughout this ordeal, the Chilean authorities ruthlessly interrogated the prisoners about their political activities prior to the coup.

Today, the *Esmeralda* is not used for torture. But to the Chilean people, it is a clear and present symbol of the pervasive terror they have endured in the 13-year dictatorship of General Pinochet.

One survivor of the *Esmeralda* nightmare described his feelings about the ship in a sworn statement:

> Up to September 10th, it had been for me, and for ten million Chileans, the "White Lady," the "National Pride." It represented Chilean democracy, manhood, the chivalry of Chilean officers and sailors. Today, it is a Torture Chamber, a Flagellation Chamber, a Floating Jail of Horror, Death and Fear for Chilean men and women.

Esmeralda means "emerald," a gem of extraordinary beauty. And the *Esmeralda* is one of the most beautiful tall ships in the world. Until the cruel coup in 1973, the vessel was a source of patriotic pride for the Chilean nation. But because of the coup that transformed the *Esmeralda* into a torture ship, the vessel no longer represents the people of Chile, or the democracy and freedom for which Chile is striving. Rather, it symbolizes the reign of terror in the days when General Pinochet's repressive regime was born.

Instead of evoking the pride of the Chilean people, the ship summons up memories of dead friends and missing relatives, midnight arrests and mysterious disappearances, detention in unknown locations and repression of a democratic nation.

Current reports by Amnesty International and other human rights groups document General Pinochet's continuing and flagrant attempts to crush any democratic opposition in Chile.

In March, the United Nations Commission on Human Rights condemned Chile's record on human rights and expressed its strong concern over the persistence of serious human rights violations, including disappearances, torture, abuses by security forces, and the denial of fundamental rights.

As long as repression continues in Chile and liberty is denied, the *Esmeralda* should not be welcomed in any celebration honoring America's own Statue of Liberty. On the day democracy returns to Chile, I will invite the *Esmeralda* to return in honor to the United States. But until Chile is free, the sails of that torture ship should not be permitted to darken our waters, let alone cast their abhorrent shadow upon our own precious symbol of liberty.

I hope the Senate will act promptly and favorably on this resolution. The *Esmeralda* is already on its way to New York. My hope is that the ship will turn back, and will choose not to participate in the July 4th celebration. But in any event, I believe this resolution is necessary at this time. I urge the adoption of the resolution and ask that the text of the resolution by reprinted at this point in the RECORD.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

> Whereas, Operation Sail has invited the Chilean naval vessel *Esmeralda* to participate in the July 4th Liberty Weekend celebration in New York Harbor;
>
> Whereas, the *Esmeralda* is the notorious vessel used for the torture of 112 political prisoners at the time General Augusto Pinochet seized power in a military coup in Chile in 1973;
>
> Whereas, serious violations of basic human rights and civil rights continue in Chile under the Pinochet regime, of which the *Esmeralda* is an unfortunate reminder.
>
> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*
>
> SECTION 1. The Congress deeply regrets the invitation extended to the Chilean vessel *Esmeralda* to participate in the July 4th Liberty Weekend celebration in New York City, and urges Operation Sail to withdraw that invitation.
>
> SEC. 2. A copy of this resolution shall be transmitted forthwith to the Chairman of Operation Sail.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TAX REFORM ACT OF 1986

The Senate continued the consideration of H.R. 3838.

Mr. METZENBAUM. Mr. President, I will soon offer a series of amendments to strike various provisions in this bill.

The amendments on the list have one common thread. Each one is custom-tailored to provide a single taxpayer or a very small group with special tax benefits not available to anyone else in this country. The amendments that I will offer are designed to zero in on these special privilege amendments.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Will the staff please take their seats at the rear of the Chamber, and will Senators please be seated?

Mr. METZENBAUM. I thank the Chair.

Mr. President, most of these special provisions are called transition rules. In its purest form, a transition rule is provided when a taxpayer undertakes an activity relying upon existing law and the law changes in the middle of the game. But there are transition rules, and then there are other transition rules.

□ 1220

This bill has transition rules that go far beyond the pure form, and it has new loopholes that masquerade as transition rules.

It is one thing to provide a transition rule which assists a taxpayer who has acted in reliance on current law. It is quite another to provide a taxpayer with a special provision denied to others similarly situated or to provide a new tax break that is not even available under current law.

Such provisions are not transition rules. They are simple greed rules. They are examples of persons who not only would not take their lumps like everyone else but they sought and they received special treatment. That is wrong.

This bill eliminates the right of an individual to deduct wholly the interest incurred in purchasing a new car on credit. But car buyers are not getting a transition rule to deduct all interest payments on the new cars they purchase for their families.

Under this bill, taxpayers must incur medical expenses in excess of 10 percent of their adjusted gross income in order to take a medical deduction. The current threshold is only 5 percent. A few years ago it was just 3 percent. As a consequence, the right of individuals to deduct their medical expenses is very greatly curtailed. It had gone from 3 percent, everything over 3 percent, to everything over 5 percent, and this bill provides only everything over 10 percent.

But this bill does not provide transition rules to the elderly who have soaring medical bills. There was no one to lobby for the car buyers or the elderly before the Finance Committee. They are not here petitioning for special treatment. They are going to pay the increased taxes.

But some insurance companies get special consideration; some big oil companies are taken care of; some investment and brokerage houses are protected; so are some shipbuilders, some cosmetic companies and some steel companies.

A tax bill affects the pocketbooks of every citizen and corporation in this country. Inevitably, there are going to be winners and there are going to be losers.

What we must seek to do is to treat everyone equally, to even out the rough spots. There may be times where that would require narrowly crafted provisions to take care of unique problems.

But if the bill is littered with special protections for those rich and powerful enough to have access to the decisionmakers—no matter the relative merits of their case—then the cause of equity and fairness is the loser and the average taxpayer is the loser.

I want to make it clear I am for the tax bill. I expect to vote for the tax bill. But the issues to which I address myself goes beyond the question of the total tax bill. The issue has to do with whether or not some individual provisions are reasonable, whether some particular carving out was done for a special corporation, a special group of individuals, and whether they should be treated differently than all of the other people in the country.

I do not doubt that some of those transition rules are reasonable.

The issue goes beyond whether some individual provisions are reasonable. Many no doubt are. But I believe that the American people are entitled to an explanation of why the Senate believes a few taxpayers should receive more favorable treatment than other, similarly situated, but less politically astute or influential.

And I believe the Senate needs to consider whether in taking care of the privileged, we have sacrificed equity in the process.

I have heard people say there's nothing new about this; that tax laws have always been written this way.

I do not believe that is true. But whether it is or not is immaterial. It is just not the right way to do business. The entire tax reform effort is premised on having a more fair and equitable Tax Code, on getting people to believe that they're getting the same fair shake as the rich and powerful.

If you give that up, you don't have tax reform, you have business as usual and all the lower tax rates in the world won't make people believe that the system works for them.

And distrust of the system leads to disdain and disaffection; it contributes to a growing sense among Americans that democracy doesn't work for them, it works for the other guy.

I do not believe the provisions listed below belong in this bill. However, I look forward to hearing the sponsors discuss in detail each of those provisions. Absent new information, I do not believe these provisions belong in the tax bill.

We have looked at every one of the transition rules contained on the committee's list, 174 of them, as well as numerous other provisions that are hand-made for specific taxpayers.

I want to say publicly that Senator PACKWOOD and his staff have been extraordinarily helpful and candid in providing us with all the information we sought. But I am frank to say that even with their assistance there is only so much information we could process.

We have tried to apply a reasonable test in determining whether to offer an amendment to strike a particular provision.

In other words, do other, similarly situated taxpayers receive the same treatment?

Is the amendment a true transition rule, or does it actually go beyond current law or the provisions of the bill to confer new tax loopholes on the beneficiary?

Is the beneficiary a municipality or a nonprofit concern or is it a profitable, private corporation?

Based on what we have been able to learn about these provisions, I believe that the section I will seek to strike has no place in this bill. If there are additional facts to support the provision that we are not familiar with and that make the provision justifiable, I will withdraw the amendment. But absent such new information, I will urge that the provision be stricken.

Mr. President, I ask unanimous consent that I may put in a quorum call without my losing my right to the floor, the quorum call not to last more than 5 minutes.

The PRESIDING OFFICER. A quorum call cannot be limited even by unanimous consent.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], proposes an amendment numbered 2079.

On page 1808, strike out line 15, and insert in lieu thereof "subparagraph (C) and (D):"

On page 1808, beginning with line 16, strike out all through page 1810, line 13, and redesignate accordingly.

Insert at the appropriate place:

The Secretary of Treasury is authorized to issue regulations that permit family farmers to use income averaging to the extent that such regulations will not reduce revenues more than the revenue raised under this amendment as determined by the Joint Committee on Taxation.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, this amendment deals with the Unocal, or popularly known as Union Oil Co. of California. It is called Unocal now.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, this amendment deals with Unocal, formerly called Union Oil Co. of California, an oil company located in California. This is not a transition rule amendment. I want my colleagues in this body to understand that that which is called a transition amendment in this respect is not a transition

amendment. There is nothing about this tax bill that removes any tax benefit Unocal is enjoying today.

This provision is a brand new, fresh off the shelf, loophole. It is not that the old law, or the law that is presently being considered imposes a tax on Unocal. This amendment says regardless of the old law, or the new law being proposed, and the mere fact that we are not affected is not important. We are asking for special tax treatment.

Unocal in 1985 was the target of a takeover attempt. And they incurred $4.4 billion in debt to adopt antitakeover measures. The tanks which extended the debt required that it be held in a Unocal subsidiary which does not engage in foreign operations. Under current law, companies operating overseas are entitled to a foreign tax credit. There are limits under the law on how to compute that credit. But the fact is Unocal does not qualify for any foreign tax credits with respect to the interest paid on this debt under current law or under the new general rules of this bill.

I want to emphasize that to my colleagues. This is an amendment that carves out a new loophole for Unocal that they would not have if the law remained as it is today, and they would not have it if the bill were passed in its present form.

Unocal is here saying we want a special new loophole because we are special. This amendment says we do not care what the old law is. We do not care what the new law is. We just want to have the right to take credit for that foreign tax credit regardless of whether or not we were or were not entitled to it.

In short, this $50 million tax break which was not available under the current law, let alone the provisions of the present bill, is a gift; nothing more, nothing less.

I will not belabor the point. I look forward to hearing sponsors of the Unocal provision discuss it. Absent compelling information I believe this provision should be stricken from the bill.

The amendment also provides that the funds raised, the $50 million, would not be given away to Unocal in order to make it revenue neutral, and the amendment provides that the revenues raised will be used to enable family farmers to use income averaging, a current tax benefit which this bill repealed.

I think, if I am not mistaken, that this was a part of the package that the distinguished Senator from Iowa, the senior Senator, Senator GRASSLEY, proposed as a part of his amendment. In connection with the Conrail amendment the other day. In other words, the funds raised would be used for income averaging for farmers.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, as I listened to my distinguished colleague from Ohio I was waiting for him to engage in a more extended discussion of the circumstances that have promoted the Union Oil Co. of California, Unocal, to seek a rule that will allow them to enjoy not a special break that sets them apart from other taxpayers who are similarly situated, but what is admittedly special treatment that they and others who are similarly situated are seeking in other to achieve survival.

He did mention in passing that Unocal along with a number of other oil companies has been one of the targets in a recent rash of hostile takeover bids. He did tell you that in order to resist that bid, Unocal incurred a $4.4 billion indebtedness, not for the purpose, Mr. President, of acquiring any new assets, and not for improving their cash-flow but simply for the purpose of resisting a hostile takeover.

I am not here this afternoon to debate the merits or demerits of hostile takeovers. Some are good and some are bad. But it is simply a fact that many of them have been directed at resource companies: At oil companies, at mining companies, those that have assets that are deemed to be of significant value, and it is true that in some cases those seeking to take them over have done so with the apparent purpose of then selling off the assets rather than continuing in the business of resource development.

I am not here this afternoon either to discuss the importance of maintaining corporations engaged in the all-important business of resource development. I think that is probably apparent to everyone who drives a car and pulls up at a gas pump, and it is probably apparent to those who are sitting in what would otherwise be sweltering heat but find themselves enjoying the coolness of air-conditioning. They probably understand the importance of resource development. And I suspect they would also understand the importance of employment.

Mr. President, I take the floor this afternoon to respond to my friend and colleague from Ohio because of my concern about the employment of some 21,000 people who are employed by what is indeed a major resource company, a major employer, one important to the local economy of the city of Los Angeles, one important to the economy of the State of California, and as you will hear from other speakers, one important to the economy of their States.

□ 1240

Jobs are something that we in the Senate take seriously, and quite properly so. Ours are not the only jobs we take seriously.

And what we are concerned with in this instance is the ability of not one corporation but at least one other that I can think of, Unocal, a company based in Oklahoma, to survive long term the effects of the hostile takeover that they successfully resisted in the short term.

Let me tell you that not only did Unocal as did Phillips borrow heavily, incurring enormous indebtedness to buy back their own stock in order to resist the takeover of their company, and perhaps its dissolution as those resources would be then solved, putting people out of work, but when they did so they did something dramatically to change what had been a highly desirable debt-to-equity ratio.

Unocal, in surviving that takeover, though successful in doing so, went from being a low-debt corporation, having before the takeover bid $1.1 billion in debt and $5.7 billion in equity, a ratio of about 1-to-6 debt to equity, which is a comfortable ratio. Only 16 percent of their net worth was debt.

They went immediately after the takeover to a situation where they became a very high-debt corporation, $5.5 billion of debt in contrast to $1.6 billion in equity. They went from having 16 percent of their net worth as indebtedness to having 77 percent.

Mr. President, what they did, in short, in order to resist that hostile takeover was to totally turn upside down their debt-to-equity ratio. That fact, along with the falling price of oil, has meant very hard times for this corporation or Phillips or for others.

What it has meant is that they are now looking at very difficult times. They had expected that at the time that they sought to finance this hostile takeover resistance, at a time when prices were higher and that the industry was good, they could pay off that indebtedness in 5 years. Now they are in hopes that it will be 10.

They did something else, Mr. President. When they sought to resist the takeover bid and went to the marketplace in order to incur the indebtedness to finance the repurchase of their own stock, which was widely held in the marketplace, they first borrowed at a rate of some 13 percent. Some 5 months later, as they were under a duty to their shareholders and to their employees and even their customers to do, they sought to dramatically reduce the tremendous interest payments due at 13 percent on 4.4 billion dollars' worth of indebtedness. They sought to refinance at a more favorable rate of interest.

When they did so, they were required by the lender in that instance to take the indebtedness not as debt of the holding company, but as debt of the operating companies, and that, Mr. President, is a significant distinc-

tion and it is what makes this a complex question.

I am probably going to tell people more than they will want to know about this. I do not like what I know about this.

The fact of the matter is under existing law a holding company can take all of the interest that it owes on such indebtedness and use it to offset its income. Its income, Mr. President, is U.S. taxable, but if, instead, as was required in this case, in order to allow the lender to collateralize that loan with those assets, the oil reserves, the gas reserves, the assets of that corporation, if, in this instance, you are talking about the interest that is required to be paid on the debt, then, under the rules that then existed, I quite agree, what you are talking about is a rule under the IRS that requires that the interest be allocated to all the operating companies, including those that are doing business in foreign countries and which, if they earn sufficient income to warrant it, are taxed by those foreign nations and gain a foreign tax credit from the U.S. Government so that they will not be doubly taxed, so that they will not be taxed once by the country in which they are operating on income in that country and then taxed a second time when the income, after the foreign taxes have been paid, is repatriated to the United States to the parent corporation or the parent taxpayer.

What happens, Mr. President, is that it is significant from a tax point of view whether or not that interest is allocated. If not allocated, then whatever your operations in a foreign nation, you will sustain a higher foreign tax credit than you would if the income coming back to you from your foreign operation is reduced and offset by the interest paid.

In other words, what happened is that, as in the case of Phillips Petroleum Co., when they borrowed to reduce their indebtedness, all the interest on that debt they could offset against the company's income. The change under this rule is that in the future the holding company will have to do what the operating companies have done. They will have to allocate the interest. They will gain a smaller foreign tax credit. In short, they will have a larger tax bill.

What that means is that those companies like Phillips and like Unocal, who have experienced these hostile takeover attempts and who have successfully fought them off only by incurring major indebtedness, they will be under a different rule than that which existed at the time that the takeover occurred in the sense that they will be getting less of a foreign tax credit.

So they are seeking not to change the bill which proposes that there be interest allocation. What they are doing is simply seeking a transition, a phasing in of the new rule.

The reason that they are seeking it, Mr. President, is because without that they face hardship.

My colleague said that this was a $150 billion proposition. He does not know that. In fact, I do not know where that figure comes from.

What is true is that the difference between the tax that is likely to be paid by Unocal under the rule without relief and under the rule that they are seeking would, over a 10-year period, amount to about $16 million. But it is a significant thing when they are having to make these crushing interest payments. No one precisely can tell what the impact will be. They do not know that because they do not know what the price of oil is going to be.

□ 1250

What they do know is, until oil comes to be $18 a barrel on the price of crude, this is going to be an academic discussion, because there will not be enough of an income for them to be concerned about foreign tax credits. And this is one point on which, without intending to, I think my friend from Ohio may have misled those who heard his presentation.

If, in fact, there were no hope of Unocal enjoying some foreign tax credit in the future, then we would not have been having this discussion. But there is the prospect that oil prices will rise—and it is doubtful they will stay at the depressed prices that are current—that at some point when oil does again achieve an $18 or greater price per barrel, that we will then see a situation in which this becomes not academic, but very real to those who are trying to stay in business.

Now, what are we talking about?

Mr. METZENBAUM. Will the Senator from California yield?

Mr. WILSON. I will yield; at the conclusion of my presentation, I will be happy to yield then to the Senator from Ohio.

What we are talking about, very simply, is the situation of not one company, not one taxpayer, there are certainly at least two and there are, I suspect, more, and we are talking about companies that have been paying high taxes. Quite specifically, in the case of Unocal, in 1985, consolidated—that is, not just the holding company, but the operating companies—on a consolidated basis system worldwide, the 1985 tax paid by Unocal came to some $910 million, hardly a paltry sum. It was 2.8, almost three times, the company's net earnings.

This is not a company that has been paying no tax. It is a company that has been paying substantial taxes, employing substantial numbers of people, some 21,000 worldwide, three-quarters of them in my State. I concede I have an interest. It would appear that there is a considerable amount of fairness in supporting not a change in the law, but simply a transition, a phasing in of the difference in the rules that are going to make for hardships as this company seeks to pay off its crushing debt.

Now, I would think that for all of his concern about fairness to the taxpayer—and I commend him for that, it is something we all share—I would think that there would be a similar concern on the part of the Senator from Ohio with respect to the welfare of those whose employment may very well depend upon such transition rules. I would assume he would be concerned about steelworkers in Ohio; those in Youngstown and in Steubenville and Sandusky and the other great steel mill towns in Ohio and in Pennsylvania and in West Virginia and in other States across the Nation.

Now, because the steel industry, we have been told time and again by the Senators from steel States, is upon hard times, times hard enough to warrant special quotas on imported steel in order to allow them to survive, that we would be interested in some kind of fairness, not just to the taxpayer but some sort of a transition rule that might help steelworkers keep their jobs. Even if he is not concerned about the shareholders of those steel companies, thinking that they are at risk and therefore have to suffer whatever management they are willing to trust, I would think that he would be concerned about steelworkers, not just in Ohio, but in California, in Pennsylvania, and in West Virginia.

I do not know the details of it, but I am told that there is a transition rule that will assist American Steel to make a go of it in challenging times, and that the device employed to assist them in doing so is one that will allow them to make about 50 percent on the dollar use of unused investment tax credits.

Now this excellent piece of legislation, the Packwood proposal, in order to achieve dramatically reduced rates—which incidentally are not affected by these transition rules in any way. We are not doing anything to the 15 percent or the 27 percent or the 33 percent maximum corporate rate. So those wearing the buttons on their lapels that say 15/27/33, this in no way imperils that magic formula. Nor do any of the transition rules. They were indeed a part of the proposal. What the Senator from Ohio is seeking to do is to knock them out.

But I would assume that he, in his concern—and I know he is concerned for the employment and the welfare of steelworkers in his State and elsewhere—would be interested in a rule that allows American steel to reach back in some cases 15 years in order to

find profits against which that unused investment tax credit can be taken.

Now why was the committee willing to do that? Why are they willing in these other instances, when they are seeking tax reform of a kind we have not seen in this country for 50 years, why were they willing to grant a transition? Well, for the very simple reason, Mr. President, that they are concerned that certain industries—perhaps through some fault of their own, but in some cases through no fault of their own—and certain taxpayers are facing sufficiently difficult times so that it does not make much sense to impose upon them a burden so difficult that they may not be able to sustain it and may in fact be threatened with diminishing their opportunity to give people their employment, their ability to employ and to pay taxes in the future.

In other words, it would be penny-wise and pound-foolish, not to say somewhat callous and insensitive, if we were to engage, in the name of fairness, in a tactic that puts people out of business who, with a little transition, phasing in the new rules, will be able to stay in business, regain a competitive position, and continue to give employment, continue, in this case, to make steel, and in the case of Unocal and in the case of Phillips, to develop, to find, and to produce needed energy resources. that would seem to make more sense. And apparently it did to the committee or they would not have engaged in inserting these transition rules in this tax reform proposal. And they did that. What they have offered us in the name of reform contains transition rules which clearly they thought did no violence to the reform.

But what the Senator from Ohio is proposing, if extended all across the board, would do violence to those transition rules. I do not know whether steel is on his list. If not, I would ask, why not? If it is good for steel to give them some assistance to survive, then perhaps it is good to give another major employer the kind of temporary assistance that will assist that employer to survive.

I will only say that no one can tell you, because they do not know what the price of oil is going to be, when this will cease to be academic. The expectation, on the basis of one table I have seen, is that within about 2 or 3 years, this will begin to have some meaning, because the price of oil will by that time have risen to the point where foreign earnings on the part of operating companies will again make very real the amount of credit that the consolidated company takes on the foreign tax credit that can be applied against the foreign income of their operating companies.

□ 1300

But let me come back to the basic point because what we are talking about at least should be equity. Yes, I will concede that technically this is not a transition rule. It is true that what we are talking about is fairness, rather than the technical accuracy of the transition rule. The only difference between the situation of this company and that of the Phillips Petroleum Co. is that Phillips did not seek to refinance, perhaps for very, very good reason. Perhaps they did not have to. But having sustained $4.4 billion in debt, having gone to the marketplace to find that and to find it in a hurry in order to resist this hostile takeover bid, in an effort arguably to safeguard the jobs of these 21,000 employees, this company was thereafter as a matter of good business judgment, of good fiscal management, required to look for some way to reduce the crushing burden of these enormous 13-percent interest payments on that $4.4 billion debt. They did that. They refinanced. They got a better interest rate, but in order to get it they were compelled to go a different treatment, to essentially the treatment that this bill will make the law. All they are saying is we are willing to do that. We are not fighting the implementation of the new rule. What we are doing is saying give us time to sustain this burden so that over a period of time as we pay off the debt we will not experience what we have in the past year.

Now, what they have experienced in the past year, Mr. President, is perhaps best indicated by the reaction of the marketplace to some of their own securities. And what has happened is that in less than a year's time Moody's, the rating service that rates debt securities, has taken Unocal from the highest rating down to, frankly, a rather mediocre one. It is a sad story for those who are shareholders, even sadder for those who are debtholders. It is also sad for those who are employees. This is a story from the Wall Street Journal dated slightly over a month ago. And it is entitled "Unocal Unit's Debt Is Downgraded Again by Moody's Investors," downgraded again by Moody's investors. I am not going to read it all to you. It just says that as a result of the debt service that they are compelled to make, having sustained that $4.4 billion indebtedness that turned upside down their debt-to-equity structure.

Since last May, Union Oil's debt, as rated by Moody's, has fallen nine notches from a high investment-grade rating of double-A-1 to the current medium-low investment-grade rating.

And it is now a Baa-3, nine notches down in less than a year's time.

Mr. President, I think that says a great deal. It says that this company is not in good times. Between the falling price of oil that has caused concern about the independents, whom this body voted to assist yesterday by a huge margin, much better than three-to-one, that same situation is affecting not simply small independent oil producers, in this instance because of the purely gratuitous situation of this hostile takeover attempt, a large oil company is beleaguered. Yes, that is the proper phrase, it is beleaguered, even though it is capable of paying the huge taxes that it paid last year. I would remind you they were three times its net earnings.

So, Mr. President, what we are looking at right here is not a benefit that is limited to a single taxpayer and it is not technically a transition rule but what it is aimed at achieving is a transition to a time when the full implementation of the rule will not impose the hardship that it does now. What we are looking at is a time when once again profitable operation will permit it to pay even larger taxes. But we are talking about a taxpayer that is similarly situated with another company, the Phillips Co., similarly situated in the broadest terms with perhaps the steel industry, perhaps many others. It is not a break denied other taxpayers who are similarly situated. Like Phillips, Unocal borrowed in order to resist hostile takeover, not to acquire assets. So we are really not talking about a loophole. We are talking about an explicit transition to allow them to survive, to continue giving employment.

Mr. President, I would suggest that what we really ought to be concerned with is not the technicality but the impact. We do need to be concerned with fairness, fairness to the taxpayer and fairness to the employees. That is what we have been concerned with. Yesterday afternoon by better than 3 to 1 we voted to give some needed assistance of a kind that we give not to other industries, not to the real estate industry, not to any number of other passive investors. Their passive income under this change will, over a period of time, be phased out. They will not continue to enjoy what they enjoy under existing law. But we are going to allow small oil producers to continue to enjoy what the existing law gives them, and that is the opportunity to use passive income and the losses that they sustain as passive investors, limited partners, to offset other income.

We are not even asking for anything of that kind here. What we are asking for is in fact fairness. We are talking about something that is not going to last forever. None of these transition rules by definition do. We are talking about temporary relief to avoid hardship. And the hardship, I think, is pretty clear if you look at what has happened in those debentures, at the change in the rating, at the change in

the earnings. As this Wall Street Journal story indicated in discussing it:

In connection with the latest downgrading, Moody's said that "the company's debt remains uncomfortably high," despite Unocal's refinancing of its debt at lower interest rates and reductions in capital outlays.

Moody's yesterday projected a "significant" decline in cash flow and earnings coverage of fixed costs for the remainder of the year, adding that it expected Unocal's refining and marketing profits to weaken.

Mr. President, that is the situation in which we find ourselves. I think that Moody's which is relied upon by small investors and large as an honest and objective assessment of the prospects of those listed companies, has said very clearly this company is hurting and that is why this rule, be it literally a transition or not, is fair to them, not unfair to other taxpayers, and for that reason, I urge that the Senator from Ohio not succeed in the admendment that would strike this fair rule from taking effect.

Mr. METZENBAUM. Will the Senator from California yield for a question?

Mr. WILSON. Yes; at this point I am delighted to yield to my friend from Ohio.

Mr. METZENBAUM. The consideration being asked for, is that provision in the current law?

Mr. WILSON. Apparently the Senator was out of the room. I hate to repeat myself, but I will, in response to his question, do so. We concede that this is not in the literal sense of the word a transition.

□ 1310

What I think is far more important, far more to the point, considering the purpose for which the committee has adopted these transition rules, is to gain the same treatment essentially as that given a similarly situated taxpayer. Phillips Petroleum Co., which, after undergoing a devastating attempt at takeover, resisted it only by virtue of having sustained a crushing indebtedness. They were not required, as was Unocal, by a subsequent creditor at the time of refinancing, to allocate the interest to the operating companies. The lenders to Phillips Petroleum allowed the loan to be made to the holding company. They did not require that it be made to the operating companies. The lender to Unocal did. Why? Because they wanted the security of the collateral, the resources—the gas reserves, the equipent, all those things.

In order to do what they needed to do to keep faith with their shareholders and their employees and their customers, Unocal sought that reduced interest rate. They sought to refinance this crushing $4.4 billion debt. In doing so and in sustaining the loan burden on the operating companies, as you know, they fell under the allocation of the interest rule.

So the answer to the question is that they are technically not seeking what is a transition, but what, in fact, they are seeking is to be treated similarly to a similarly situated taxpayer.

Mr. METZENBAUM. My friend from California agrees that it is not in present law, and I think we can agree that it is not in the present bill except for this amendment.

The Senator from California indicated some question with respect to the figure of the Senator from Ohio—that it would cost $50 million—and said that figure was not accurate in view of the lower prices.

Does the Senator from California have a different figure, inasmuch as the Senator from Ohio gained his information with respect to the $5 million cost from the Finance Committee staff, which we are advised got it from the Joint Committee on Taxation staff?

Mr. WILSON. I say to my friend from Ohio that, with the greatest respect for the Joint Tax Committee staff and for the Finance Committee staff—who, I can see, are quite capable—they have been placed in the position of having to make an educated guess. But I think he would be the first to concede that they are compelled to engage in what is necessarily sheer speculation.

They do not know what the price of oil is going to be; and without knowing that, they cannot tell you by more than an estimate, a very rough estimate, a purely speculative estimate, as to what the financial impact will be. There is no one who can. That is no insult to that staff. There is no one who can tell you, any more than anyone could have told you a year ago what the price of oil would be today.

Mr. METZENBAUM. Mr. President, I yield the floor.

Mr. CRANSTON. Mr. President, I want to make clear that I was not a sponsor of the rule the Senator from Ohio wants to remove from the bill which is now before us. But I rise in support of the special rule provided by the Finance Committee for the Unocal Corp. of my State of California.

This provision is one among several which benefit major oil companies, including Phillips Petroleum and Texaco.

The Joint Committee on Taxation has estimated the revenue cost at less than $50 million. The company argues otherwise, suggesting that the actual revenue cost is much less, along the lines of $16 million based on continued low oil prices for several more years.

The issue involved is how the company must allocate the interest expense it acquired when Unocal added $4.5 billion in indebtedness last year in order to fend off a hostile takeover attempt.

Frankly, I am appalled at the enormity of the $4.5 billion indebtedness a previously sound, healthy company with a very low debt-to-equity ratio assumed itself in order to escape a takeover attempt.

This $4.5 billion in debt-load produced nothing—no new assets, no new cash flow. Nothing.

The Treasury of the United States should be appalled, too. Because what has happened is that a once-profitable company, which has pumped a healthy stream of revenues into the Treasury, some $1.7 billion in windfall profit taxes in addition to corporate income taxes, and into the general economy of California, and the Nation, is now in financial difficulty.

The price of oil, as we all know, has dropped drastically. And that fact has altered everything and required the special relief provided in the transition rule under question.

How did the company fall into the situation from which relief is requested?

At the time of the takeover the best terms on which money could be borrowed was a weighted average of 13 percent. This debt was placed at the holding company level and under the law was not subject to interest allocation rules which require a proper allocation of interest costs against foreign source income.

As interest rates fell, the company sought to obtain refinancing of the indebtedness at a more favorable interest rate. In order to refinance, the banks required debt to be placed at the operating company level. As we all know, many banks are having their own financial problems and are now, more than ever, required to take even more precautions than usual in self-protection. This action brought the interest on the debt under the interest allocation rules.

My friend, Senator METZENBAUM, is correct in observing that this transition rule essentially seeks relief from current law.

It does.

Yet, but for the fact that Unocal was required by the banks to move its debt, Unocal would have obtained the same transition relief provided to Phillips and Texaco who retained their debt at the holding company level.

It is the same debt in both cases for Unocal. It's just that the debt has shifted placement from holding company level to operating level and therefore comes under the allocation rules under current law.

If the theory of the change to be enacted by H.R. 3838 is correct, and I believe it is, then debt is debt, interest cost is interest cost, equity is equity, fairness is fairness, and where the debt lies should not make a technical difference which subjects one taxpayer to taxes and another to a different set of rules.

That is why this rule fits as a transition rule, even though it provides relief from what is current law.

And it places Unocal on the same footing as its competitors; Phillips and Texaco.

With the drastic fall in oil prices, servicing this debt has become an enormous problem.

This transition rule goes a small way toward helping Unocal survive and pay its debts until the price of oil rises.

The rule gives the company time to phase in interest against foreign income. Under allocation rules, 13 percent of interest would be taken against Unocal's foreign income.

At the present time, with the price of oil around $14 a barrel, this costs the Treasury nothing because there is not much income to deduct the interest against.

Unocal will earn foreign profits when the price of oil rises to $18 a barrel.

If one assumes that the price of oil will gradually rise and will pass the $20 mark by 1989, the cost to the Government over a 10-year period could be as small as $16 million. Of course, if the price of oil shoots up the cost will rise to the Treasury. That is why the joint committee figure is placed at $50 million. I repeat that the actual figure is more likely to turn out to be far less.

It is important to keep in mind that this amendment applies only to Unocal's takeover debt. It does not apply to any other indebtedness cost of the company.

□ 1320

Finally, this amendment is an example of why the drive to move our tax laws into a world where common sense prevails is so powerful that many people and corporations are willing to pay higher taxes in order to get there.

Substance and sense ought to prevail over form. The interest allocation rules under H.R. 3838 are a move toward substance over form. The bill's provision correctly assigns interest costs to all income and does not allow a corporation to escape proper allocation of interest cost by shifting debtload to the holding company level. Transition relief is provided for companies whose debt is held at the holding company level. This transition relief provides equitable relief for Unocal similar to that provided Phillips and Texaco.

The Finance Committee accepted this judgement and I concur and urge my colleagues to join with me in support of this provision of the bill.

The Senator from Ohio shifts the small revenue gain by his amendment to pay for income averaging for farmers. I support income averaging for farmers. There will be an amendment to provide income averaging for farmers but that is not the issue here because $50 million or the lesser $16 million estimated by Unocal will not provide any significant income averaging relief for millions of American farmers.

Let me finally say this about the situation we face in regard to this amendment. I address my remarks to Senators on the floor. I address my remarks to Senators watching on television. I address my remarks to staffers watching this discussion who will be advising their Senators about the situation in regard to this amendment.

It is highly technical as are most of the tax amendments, but it seems to me that it is very, very fair to support what was done namely in the committee. We have seen a strenouous and thus far successful effort to hold against any significant changes in major provisions of the bill.

Major provisions to many relate to so-called transition and other benefits that were approved in the committee by a vote of 20 to nothing that meet the needs of one set of constituents for another. If we now start picking that apart and taking out what was approved unanimously in the committee, taking it out on the floor by a vote here, that could begin an unraveling process and there would be efforts to go after other provisions that are in the bill that do suit the needs of certain Senators and meet equitable needs of their constituents.

If we begin to take the bill apart in this way, I suspect that also would doom any effort for some further provisions that might be in a final amendment to be offered, perhaps by the chairman of the committee, to take care of certain needs of other Senators who are not on the Finance Committee and their constituents who are in States not represented on the Finance Committee, that opportunities for greater equity to take care of certain legitimate needs would be less likely to occur.

I think all Senators should keep that in mind as they consider how to vote on this first of these amendments along this particular line of attack on the bill.

The PRESIDING OFFICER (Mr. DANFORTH). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the Chair.

I would like to reflect on the comments of my colleague from Ohio who has provided us with a rather interesting list of some 19 companies I gather his staff has selected out of some 174 that are listed as the total transitional number that the Finance Committee staff has suggested be included in the tax bill.

I think the Senator from Ohio has done the Senate an appropriate service in evaluating in great detail, and out of 174 selected specifically 19 for detailed examination, which is what we are initiating now with the examination of Unocal.

I wonder if I could get a clarification from my friend from Ohio. Is it his intent that the Senate reflect on the entire 19 transitional rules, or is there a possibility we will act individually on each one, or has that been determined?

Mr. METZENBAUM. I am not sure I understand the question.

Mr. MURKOWSKI. I have before me a list provided by, I assume, the staff of the Senator from Ohio, a list of 19 exceptions to his examination of the transition rules. My question specifically as we proceed—we started with Unocal—is the intention of the Senator from Ohio that we address these in their entirely and whatever action the Senate might take, or individually?

Mr. METZENBAUM. They would not be handled as a package. Does the Senator mean the whole 19 in one package?

Mr. MURKOWSKI. That is correct.

Mr. METZENBAUM. I have no intention to do that.

Mr. MURKOWSKI. He would single them out for specific action?

Mr. METZENBAUM. That is correct.

As the Senator from Alaska knows, I previously stated that if the amendment in the bill can be justified, then I will take down the amendment, and I also indicated that there may be other egregious cases with respect to which I expect to address myself when those come to my attention. We are still studying them.

Mr. MURKOWSKI. I thank the Senator from Ohio for the clarification.

In view of the fact that the Finance Committee spent a great deal of time in deliberating on the appropriateness of these transitional rules and 174 companies or firms that were affected, I find it interesting to note on the 19 that where selected for explicit examination that nearly half of these are energy companies.

As we reflect on the dependence which we have in the United States on energy, particularly imported energy, and specifically oil where we recognize that nearly 33 percent of our utilization of crude oil is dependent upon importation from both Canada and Mexico and we recognize as my colleagues know—he is a member with me on the Energy Committee—the commitment of the administration toward achieving a greater degree of energy independence, yet that committee and each member of this Senate has a responsibility of working toward less dependency on foreign imported oil.

We are struck with the reality that we are still utilizing more crude oil domestrically in the United States than we are finding and replacing each day.

Obviously that creates a growing concern. We have seen the realities as-

sociated with the impact of the Mideast as a focal point of control dictating whether the price of oil in the world and the price of oil in the United States will go up or down.

Fortunately, the U.S. dependency on the Mideast is somewhat limited, but I am sure in the wisdom of the Finance Committee my colleague from Ohio would agree that it is important that we maintain and have a healthy domestic industry. Unocal is one of those companies that represents a domestic company with little foreign holdings, a company that is pretty much committed to the service on the west coast of the United States, a company, true, that has several hundred employees in my State of Alaska.

I will not debate the merits of the narrow definition of transition rules with regard to Unocal. But I think that both the Senators from California spoke eloquently and at length and with great detail on the financial implications of what this company has had to bear to maintain its survivorship under a market where hostile acquisitions had run rampant previously. They incurred heavy debt and, as a consequence, they are attempting to maintain their financial integrity and meet their obligations. I think it fair to say that they have taken internal steps through the competency of their management to work out this rather difficult picture.

But the reality of what is before them and the wisdom of the Finance Committee in considering those companies that requested consideration under transitional relief bring us down to a point of basic interpretation.

I would ask the Senator from Ohio, since we are talking about costs to the taxpayer, if indeed he would not agree that it is impossible to project the price of oil and the figures that the Joint Committee on Taxation utilize and provide to the Finance Committee were based on a different set of assumptions than those that are used within the industry.

The industry uses a set of assumptions over a 10-year period that would indicate the cost to the taxpayer to be about $16 million. I believe my colleague from Ohio is using a figure provided him of some $50 million-plus.

I ask my colleague from Ohio if it is not reasonable to assume that indeed it is impossible to predict in reality what the oil prices are going to do, and the projections within the industry over the 10-year period run from $15 to $33. Yet, the Joint Committee on Taxation has indicated that they are using an average of 27.

I would again call to the attention of my colleague from Ohio the substantial discrepancy, and as he considers the merits of the request by Unocal, if indeed we are not talking more realistically about the cost to the taxpayer over 10 years of $16 million, and not the $50 million which he has indicated.

I agree with the reality that we both go to different sources for figures and we make our points accordingly.

Mr. METZENBAUM. If I may respond, without the Senator losing his right to the floor, I have no way of estimating the figure. I have gone to the usual sources. I have gone to the objective sources, which are the Finance Committee and the Joint Tax Committee. I think that is as objective a source as you can find. They have said it is $50 million.

I respect the Senator from Alaska, and anybody else who wants to come up with a different figure. I am not certain it proves the case one way or the other. There is no question that it is special treatment whether $15 million or $50 million but at this point I am prepared to rely upon the objective figures that have been given to us of $50 million.

Mr. MURKOWSKI. I submit for the Record the figures represented by the industry's submission on this, and again I would request of my colleagues as they reflect on the merits of the wisdom of a Finance Committee in addressing the reality that what we need to maintain in this country is strong domestic industry.

I ask unanimous consent that the figures be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

U.S. GOVERNMENT REVENUE LOSS FROM UNOCAL CORP., DUE TO ANTI-TAKEOVER INTEREST ALLOCATION RULE

Assumptions: $4.4 billion anti-takeover debt; 10% annual interest rate; 13% of interest allocated to foreign operations.

Anti-takeover interest allocated to foreign operations: $4,400 MM × 13 = $57 MM.

Maximum tax savings with no interest allocation: $57 MM × .35 = $20 MM.

year	WTI oil price [1]	Total tax reduction [2]	Excluded interest [3]	Net tax reduction [4]
1987	15	0	90	$0
1988	17	0	80	0
1989	19	1	70	1
1990	21	1	60	1
1991	23	2	50	1
1992	25	2	40	1
1993	27	20	30	6
1994	29	20	20	4
1995	31	20	10	2
1996	33	20	0	0
Ten years total (MM)				16

[1] West Texas Intermediate Crude Oil Posted Price.
[2] Total reduction in Unocal taxes if no anti-takeover interest were allocated to foreign operations.
[3] Percent of takeover interest not subject to foreign allocation.
[4] Net tax reduction for Unocal after 10 percent per year phase-in rule.

Mr. MURKOWSKI. Mr. President, this particular company, unlike many other companies, does not have the depth of holdings outside the United States that would give it the financial strength to overcome the adversity of fighting the takeover and the tremendous $4.4 billion debt that they were required to have to undertake and work out of.

So in conclusion, Mr. President, I feel that there is justification for this inclusion under the transitional rules because it is in the national interest of the United States to have a viable domestic petroleum industry and Unocal plays a major rule in that contribution.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, I have just a word or two more because of some things that have been suggested by the debate here on the floor.

For one thing, I know that the Senator from Ohio has had a deep concern about hostile takeovers, so deep in fact that I know he moved in this First Session of the 99th Congress to be one of seven cosponsors to a bill offered by Senator BOREN that was aimed at making more difficult the kind of hostile takeover, the very kind that faced both Phillips and Unocal, and the legislation which the Senator from Ohio cosponsored sought by some very specific steps to defeat those hostile takeover attempts.

They would have taxed green mail profits under this legislation; that is to say, they would have made taxable any profit offered to a shareholder in order to make successful the takeover. They would have also treated the interest on money borrowed by the entity engaging in the takeover nondeductible. We are not talking about the situation where someone borrows to resist.

What the Senator from Ohio and his colleagues were seeking to attack by this legislation was the effort to borrow money, or to finance these hostile takeover bids. Again, I am not at this point going to comment on the wisdom or lack of wisdom of hostile takeovers because I do not think you can generalize. But it is ironic, I think, and I am compelled to point out the fact that the Senator from Ohio was in this instance so concerned about hostile takeovers that he sought to virtually preclude them, and is now not exhibiting the same kind of sympathy for those that have been the targets and the victims of those takeovers.

Indeed, had we waited just a moment, if there had been a difference in the timing of the action of the Federal Reserve Board in tightening up the margin requirements on so-called junk bonds might have eliminated this threat, we would not be here talking about it.

For all of those reasons, Mr. President, I now move to table the amendment of the Senator from Ohio. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California to lay on the table the amendment of the Senator from Ohio. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. GARN], the Senator from Florida [Mrs. HAWKINS], and the Senator from South Dakota [Mr. PRESSLER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Missouri [Mr. EAGLETON], and the Senator from New Jersey [Mr. LAUTENBERG] are necessarily absent.

The PRESIDING OFFICER (Mr. MATTINGLY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 33, nays 60, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—33

Armstrong	Hatfield	Quayle
Boren	Hecht	Roth
Boschwitz	Heflin	Simpson
Cranston	Helms	Stafford
Danforth	Laxalt	Stennis
Domenici	Long	Stevens
East	Lugar	Symms
Goldwater	McClure	Trible
Gramm	McConnell	Wallop
Hart	Murkowski	Warner
Hatch	Nickles	Wilson

NAYS—60

Abdnor	Exon	Mattingly
Andrews	Ford	Melcher
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mitchell
Bingaman	Gorton	Moynihan
Bradley	Grassley	Nunn
Bumpers	Harkin	Packwood
Burdick	Heinz	Pell
Byrd	Hollings	Proxmire
Chafee	Humphrey	Pryor
Chiles	Inouye	Riegle
Cochran	Johnston	Rockefeller
Cohen	Kassebaum	Rudman
D'Amato	Kasten	Sarbanes
DeConcini	Kennedy	Sasser
Denton	Kerry	Simon
Dixon	Leahy	Specter
Dodd	Levin	Thurmond
Dole	Mathias	Weicker
Durenberger	Matsunaga	Zorinsky

NOT VOTING—7

Biden	Garn	Pressler
Eagleton	Hawkins	
Evans	Lautenberg	

So the motion to lay on the table amendment No. 2079 was rejected.

□ 1400

The PRESIDING OFFICER. The question recurs on the Metzenbaum amendment.

The amendment (No. 2079) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I do not see anyone seeking the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1420

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, yesterday my colleague, Senator HUMPHREY, and others, visited with the President about an amendment which Mr. HUMPHREY and Mr. PROXMIRE and some of the rest of us had intended to offer as an amendment to this bill.

In brief, the purpose of our amendment would have been to disallow the highly preferred tax status of those nonprofit corporations which provide funds, facilities, or financing for abortions. It was not our thought that this would represent in any sense an up or down vote on how you feel about abortions but really an up or down vote on tax policy of whether or not this particular surgical procedure which is disapproved by many, including the Senator from Colorado, should enjoy the same kind of tax preference as is now accorded to churches and synagogs, to organizations whose fundraising purposes are to supply materials and aid for handicapped children, reading for the blind, and so on.

It would be in order to do so, although in a sense, it would be a nonsequitur since this is a tax issue. Some have argued that it is not timely, that somehow offering an amendment like this would be disruptive.

It appears to me, Mr. President, that anytime you address a controversial question, and this is a controversial question, there is a certain element of disruption.

Polls show overwhelmingly that the public disapproves of abortion, even among people who believe it should be lawful. It is not an activity which is endorsed or approved of by the vast majority of people in this country which underscores why abortion should not have the same tax-preferred status that is now enjoyed by, say, feeding the hungry, caring for the indigent, providing services to the blind, scientific research, churches, and so on.

It seems to me, and I believe it will be the growing consensus within this body, that Congress never intended nor is it sound public policy to provide that kind of privileged tax status for abortion.

When you think of it, it is really an anomaly that this could have come about in any case because at the time the charity statutes were written and charitable corporations accorded this preferred status in the Tax Code, abortion was not even a lawful activity in most areas of the country, let alone an activity which would be granted a preferred status under the Tax Code.

So, Mr. President, the theory of the amendment which was to have been offered by Mr. HUMPHREY, Mr. PROXMIRE, and quite a number of Senators on both sides of the aisle was simply to say that corporations, nonprofit entities which engage in this activity should not be given a highly privileged tax status.

Some said this is not the right place to offer an amendment like that to which I can only respond where in the world would be the right place? If you are amending the Tax Code why would one not offer an amendment on a tax bill? Should we put it in instead on the debt limit or the supplemental appropriation, or on the armed services bill or some other similar piece of legislation?

Mr. President, that is the rationale for the amendment which was intended to be offered. As Senators may know, on yesterday Mr. HUMPHREY and others met with the President and reached what I think is a very wise and statesmanlike agreement.

The President pointed out first that he was sympathetic to our amendment. He said he favored it, that he really felt that the Tax Code should not be preferential toward organizations that perform and conduct abortions, but he said, "Long before I knew of this proposed amendment, I made a pledge to resist all amendments to this particular tax reform bill," and so the President found himself, and I am forced to admit that many Senators also found themselves, in a position of being forced to choose between their long-held convictions about the sanctity of life and about the legislative measures designed to enhance the sanctity of life and, at the same time, the honoring of a pledge that they made to facilitate the passage of this bill.

So the President's proposition, which I understand was agreed to by the chief sponsor of this amendment, is not offer the amendment on this bill, with the understanding that Mr. Reagan would actively support, not just give his passive blessing to, but indeed actively support this amendment when it is offered later this year.

Lest Senators think this is a suggestion that it be offered as a free-standing measure or that it will be shuttled over into legislative oblivion, that it is going to be forwarded down some intellectual cul-de-sac, as I understand the proposition which has been agreed to it is this, that Mr. HUMPHREY and representatives of the White House will seek to find a legislative vehicle which is in the category of "must pass." I do not know what that is going to be. I do not know whether it will be an authorizing bill or appropriations bill or one of the other tax measures coming down the pike. Anyway the understanding is this, that it will be offered to a bill that is going someplace, not just a bill that is going to be gathering dust in some committee or one House or another.

I think that is a very good solution to the problem.

My main reason for rising is simply to congratulate Senator HUMPHREY and the others who have made this solution possible and in effect taken off the spot not only the President but Senators who conscientiously would like very much to support this amendment but who had previously entered into a promise not to have support for amendments on this bill.

So I think it is a good solution, and I think it enhances the prospect for the passage of this legislation.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. ARMSTRONG. I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. I was not here when Senator HUMPHREY discussed this. I was wondering if this would cover Planned Parenthood.

Mr. ARMSTRONG. I would say to the Senator from Arizona it would cover some affiliates of Planned Parenthood is my understanding, those which actually perform abortions or which provide financing or facilities for abortions. Other affiliates of Planned Parenthood would not be covered.

I think it is also important, and I appreciate the Senator for raising this question, to understand that the Humphrey-Proxmire amendment does not disallow the tax charitable status of organizations which advocate abortion.

We think it is important to protect the first amendment rights of anybody to advocate even a very unpopular cause. It is only if that crosses the threshold of providing facilities or financing or in some other way actively participates in abortion.

Mr. GOLDWATER. I was interested in that because Planned Parenthood has done a tremendous amount of good down in the part of the country I live in where we have many, many people who never have the facilities to prevent unwanted children or even children, and Planned Parenthood, for example, helped to reduce the average family from across the border from around eight or nine to two or three, all of which is a benefit to them, benefit to us, and if they suddenly were denied the tax-free status, and I might say originally they were totally against abortion and I believe they have advocated it only when that seems to be the only course.

I thank the Senator for his answer because it is very close to me and I just want to know where we are.

Mr. ARMSTRONG. I appreciate the Senator's expression of interest.

Let me join him in expressing approval of and support for family planning efforts that really permit families to plan responsibly and intelligently for the size of family which they would like to have.

As I am opposed to abortion, I really do think that family planning is a highly desirable activity and I think our amendment would not touch that. In those cases where some organization might provide both family planning services and abortion services, I presume they would simply spinoff one or the other into a separate entity for tax purposes.

Mr. EXON. Mr. President, will the Senator yield for a question?

Mr. ARMSTRONG. I am pleased to yield?

Mr. EXON. Mr. President, I listened with great interest to the remarks by the Senator from Colorado. He knows he and I have discussed the amendment that was to be offered, and I think the resolution of it has been well thought out and I think that is the best way to do it. So, I join in the remarks of the distinguished Senator from Colorado in that regard.

I also listened to the interesting question by the Senator from Arizona which was one of those that I had raised earlier, and basically I understood the amendment, if it had been offered and in the form that it will be offered, would not penalize family planning in any way, shape, or form except those agencies that might now be actively engaged in the performing of abortion.

Does the Senator from Nebraska have the right understanding on that?

Mr. ARMSTRONG. The Senator is entirely correct.

May I observe that I especially appreciate the contribution of the Senator from Nebraska because he is one of a handful of Members of this body for whom the sanctity of life has been an important priority for a long time and who has consistently supported thoughtful measures to preserve life and as usual, he has been careful to distinguish between the elements of the proposal and clearly, as the Senator points out, this amendment seeks only to disallow the tax-preferred status when abortion is performed and does not impinge either on family planning measures, nor even upon the first amendment advocacy of abortion even though he and I might not wish to advocate that.

Mr. EXON. I have a further follow-up question, both a question and in the form of a suggestion, that I think would strengthen the amendment when and if it is put before this body with the active participation of the President.

□ 1430

That has to do with rape and incest. Had the amendment been offered, this Senator would have offered or attempted to have offered an amendment to have this not apply in the case of promptly reported rape or incest. I do not believe that was in the original intent because I think the amendment that was going to be offered basically was wrapped up around what we generally refer to as the Hyde language.

I ask the Senator from Colorado, would he, like myself, who has some concerns in this area, possibly consider when the amendment is offered at a later date with the support of the President, that reference be made to promptly reported rape and incest as an exception?

Mr. ARMSTRONG. Mr. President, of course, I would be willing to consider any proposal put forward by the Senator from Nebraska. My own present feeling is that it would be a mistake to depart from the Hyde language, for this reason: For a number of years Congress and others who are interested in this problem have wrestled with the issue of exactly what language best expresses the emerging consensus with respect to abortion in this country. I am not sure the so-called Hyde language is perfect. Maybe it could be improved. Indeed, there is the proposal called the unity proposal, which moves in one direction There is the notion suggested by the Senator from Nebraska which moves in a slightly different direction. My own feeling is the course of wisdom is probably to use the language which has already been adopted by Congress over and over again which appears in our statutes in a number of places.

But having said that, I express really only my opinion at this point, not a firm unshakable conviction because at this stage of the game I think certainly the issue is open for further thought and discussion, and the contribution of the Senator from Nebraska would be most useful.

Mr. EXON. I thank my friend. I simply say, if we are going to try to develop a proposition that has a chance of passing in this body rather than having a series of moves that lose time after time after time then I think, we should not be bound with the Hyde language. It does not have to be the

Exon language, or the Armstrong language. I am not trying to be the author of anything.

I am simply saying those of us who feel strongly about this had better be reaching out somewhat to some legitimate concerns that many legitimate citizens have who are in support of the basic concept that was going to be offered by the amendment that is now not going to appear on this bill as I understand it. I simply say I think we can maintain our purity, if you will, without being so concise and without going back to something we have done before just because it has been done. I suspect we are going to have a great deal of difficulty even with the help of the President of the United States of passing that kind of a measure unless we do something to address the rape and incest proposition that the Senator from Nebraska has advanced and will continue to advance.

I thank my friend from Colorado.

Mr. ARMSTRONG. Mr. President, I thank the Senator from Nebraska. I am prepared now to leave the issue for the further thought and consideration of Senators. I hope every Senator will reflect upon this matter. It is not going to be before us during the course of the debate on this bill but some time in the next 2, 3 weeks, or month or so this matter will again come before the Senate as an amendment to an important piece of legislation we believe with the active support of the President and others. But I hope as Senators have further thoughts about it they would contact the principal sponsors, Senator HUMPHREY, and Senator PROXMIRE, and be in touch with the Senator from Nebraska, and, of course, I would be happy to hear from Senators who have ideas as well. I thank the Chair.

Unless others seek recognition I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1440

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, it appears, unfortunately, we are not going to be able to have any more rollcall votes today so there will be no more rollcall votes today. That is my statement.

I am advised between 3 and 4 o'clock the distinguished Senator from Minnesota, Senator BOSCHWITZ, and a number of his colleagues will be making statements on so-called passive loss rules, so we will still be on the bill from 3 to 4 o'clock.

I am also advised by the distinguished Senator from Ohio and concurred in, I think, by the chairman of the Senate Finance Committee, that on Monday maybe we can kick off some of these transition rules starting with rollcall votes at 3:30 on Monday. I do not know if we will stack very many but at least we will stack one or two so that at 3:30 we will have some rollcall votes.

Mr. METZENBAUM. The Senator from Ohio will be prepared to proceed as the leader suggests.

Mr. DOLE. I appreciate the cooperation of my colleagues, and I appreciate Senator BOSCHWITZ bringing some of his group over at 3 o'clock. I understand he has 23 who wish to speak. I do not think they are all coming at 3 o'clock but they will be here at different times between 3 and 4 o'clock.

If they do not complete their discussion today, it will probably go over until Monday.

We will be on the bill at 12 noon on Monday. We will come in at 11 o'clock and be on the bill Monday at noon. Perhaps if the Boschwitz group has not finished their discussion they can do that for awhile. Senator METZENBAUM will be prepared Monday. He is on a winning streak and he wants to pursue that.

MORTGAGE REVENUE BONDS

● Mr. ABDNOR. Mr. President, I rise today, not to offer an amendment—which I know comes as a disappointment to the distinguished managers of this historic bill—but to express my concern and disappointment that mortgage revenue bonds, unlike any other tax-exempt bonds, are still targeted by this legislation to sunset on December 31, 1987. Undoubtedly, if this date should prevail, State housing finance agencies will have to enter the same battle a year from now as the housing groups return to Capitol Hill seeking an extension or deletion of the sunset.

Since the sunset date was initially established, we in Congress have imposed targeting restrictions to assure that the proceeds of mortgage revenue bond reach those individuals who should receive the benefits. It is unnecessary that we retain a sunset provision to trigger a reexamination of the effectiveness of the program. Actually, it only invites a self-imposed crisis that we can well do without. Hence, I urge those who are appointed conferees on this historic legislation to delete the scheduled sunset of mortgage revenue bonds.

I also wish to express my deep concern that in light of our requirements to better target mortgage revenue bond proceeds to lower income groups, there is not provided in this legislation more tax incentives to developers to better allow them in reality to provide lower cost housing to those persons who can least afford today's cost.

I challenge the members of the conference committee to address these issues during their deliberations.●

SOUTH AFRICA

Mr. LEVIN. Mr. President, while there is a pause in our debate on the tax bill, I want to take a moment to talk about the events in South Africa. And when you talk about South Africa today, you talk about death—no, not really death; you talk about murder, you talk about state-supported mass executions, you talk about detention, you talk about women and children being beaten.

All that is happening now. And it is going to keep happening over the weekend. And, unbelievably, it is going to keep escalating when, on Monday, million of black South Africans will risk death in order to pay tribute to the 10th anniversary of one of their symbols of resistance: the Soweto uprising.

Mr. President, the South African Government is getting ready for that tribute. They have enacted sweeping "security" laws. They may call them security laws, but in reality they are not legal and they sure are not the way to promote security.

Look at what the Government has done. It could not even get its rubberstamp parliament to give it the powers it wanted so it acted unilaterally and claimed an even more sweeping grant of authority than it originally requested. It wants to use that authority to arrest people without warrants—and they have arrested over 2,000 so far including over 200 church leaders. It wants to use that authority to conduct searchers without warrants—and they have already entered the South African Council of Churches building in Johannesburg, cut its telephone and telex lines and prevented anyone from leaving the building. It wants to use that authority to declare any part of the country it wishes off limits to the press—and a blackout is already in place in critical areas.

That is a law? That protects security?

The only people it protects are the security forces which are, under the terms of the act, exempt from any legal action directed against them as a result of the brutality in which they engage and the damage that they do.

Mr. President, some people are surprised by all this. But I am not. Nor should our Government be surprised.

71-059 O-87-17 (Pt. 10)

We have seen this sort of behavior before. In the past few weeks, if anyone needed more evidence of the nature of the regime in Pretoria, they could find it in Crossroads. In that embattled collection of shanties, Pretoria has tried to create a picture of internal black confrontation and black political instability. They have done that in the hope that they could persuade some people to think that the present regime was better than the crisis that would be created if it fell. But Mr. President, the black conflict in Crossroads is a direct function of Government action. Just this morning our State Department confirmed what we have known for weeks—that the evidence "reveals police complicity with the vigilantes in Crossroads." Which means that the police, the Government, are fomenting the unrest there.

But they are doing more than creating a crisis. They are then standing back and letting it grow. The police have given the vigilantes weapons—and then they have surrounded Crossroads with barbed-wire barriers and stood behind them and watched the killing take place. They are making no effort to protect people, no effort to calm the conditions which they have created.

And I fear we can look forward to more of the same on Monday.

Unless we act now.

Mr. President, we have passed resolutions, we have made statements, we have supported protests—but we have not changed our policy of quiet diplomacy and we have not done what we can and should do: impose sanctions.

Let me conclude these remarks by quoting from the report of the Commonwealth Governments Eminent Person Group which just concluded their efforts to assist all parties in developing a solution to the problems which are destroying the country. They found that ANC leaders displayed "reasonableness * * * an absense of rancor and [a] a readiness to find negotiated solutions."

But they found that the Government "is not yet ready to negotiate fundamental change." And one of the reasons, the report indicated, for that unreadiness is the absence of sanctions. The report said that the "absence [of sanctions] and Pretoria's belief that they need not be feared defer change." The net result is that as long as Pretoria believes that it is protected from sanctions, the violence will continue to escalate and "the cost in lives may have to be counted in the millions."

Mr. President, we have followed one course of action for 6 years now. It has not worked. It will not work if we follow it for another 6 years—assuming that the present Government could, somehow, survive for another 6 years.

We need a new policy in South Africa. And we can have one if the administration simply listens to the Congress, listens to the people of this country, listens to the people of the world. If we fail to listen, we will watch—we will watch more beatings, more bloodshed, more murders, more dead.

And Mr. President, as we watch we should know that we are being watched. Last week, Rev. Allan Bosk was in Washington and he spoke with a number of us. And during our conversation he said this:

I have come to the conclusion, and so have many of my people, that if in South Africa the situation were different, if it were white children who got tortured and killed the way our children get treated in South Africa, the United States would have long ago gone into that situation and would have changed it, even if it had to be done with violence. It would never have tolerated this.

In an interview with USA Today, he said:

For more than two years now, the South African government has been waging war. Our townships are besieged, the women and children of our communities terrorized, our people dying. Constantly, down the streets, we wade knee-deep in blood. Our churches have been desecrated, our church services have been disruptd by police with tear gas and dogs and guns. Our communities have been threatened and victimized. Many of our people systemically assassinated. The murderers have never been found.

Mr. President, this may be our last chance to avert a disaster in South Africa and our last chance to avoid an international humiliation for American policy in South Africa. The way to do that is to apply sanctions now.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. NICKLES). Without objection, it is so ordered.

Mr. DOMENICI. I ask unanimous consent that I may proceed as if in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW MEXICO IS A STATE DAY

Mr. DOMENICI. Mr. President, I shortly shall send to the desk for its immediate consideration, and I ask unanimous consent that it be in order to do so, a resolution that will recognize today, June 13, 1986 as "New Mexico Is a State Day." This resolution is necessary to draw attention to a reality that is frequently overlooked, either through ignorance or hearing impairment.

I ask my colleagues in the Senate to recognize that New Mexico is a State.

I ask that my colleagues recognize that I was not sent to Washington, along with my distinguished junior Senator, Senator JEFF BINGAMAN, from a foreign country but from a State of the Union. We were both elected by U.S. citizens who reside in the sovereign State of New Mexico. For those who are not familiar with the geographic location of my State, the Land of Enchantment, it is directly south of Colorado, east of Arizona, west of Texas, and north of the Mexican border. I repeat, north of the Mexican border. I repeat, north of the Mexican border. It was established as the 47th State in the Union in 1912.

□ 1510

Recently, a congressional candidate, David Cargo, a former Governor my State, was informed by the Treasury Department that 30 percent of his Treasury bills would be withheld because he lived in a foreign country.

I would ask unanimous consent that this correspondence with the Department of Treasury on this matter be inserted in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, DC, April 28, 1986.

DAVID F. CARGO,
Albuquerque, NM.

DEAR MR. CARGO: This letter refers to 1000 of 14¼ percent Treasury/Notes, Series C-91 registered in your name.

Under Section 1441 of the United States Internal Revenue Code of 1954, as amended, thirty percent tax on interest payable to a person not a citizen of the United States must be deducted and withheld at the source. Since your address is in New Mexico we would be compelled to withhold thirty percent tax from interest payments. However, it appears that you may be a citizen of the United States residing in New Mexico. If this is the case, you should send us a statement to that effect, in duplicate, signed by you so that the full amount of interest may be sent to you.

However, if you are not a citizen of the United States, but a citizen of New Mexico, please execute both of the enclosed Forms W-8 and return them to this office in the enclosed self-addressed envelope.

Your statement of Form W-8 must be received in this office by return mail, or the thirty percent tax will be deducted and withheld, and continue to be deducted and withheld until received. You will have to contact the Internal Revenue Service for refund of any interest overwithheld.

Sincerely,

W. A. WEATHERALL,
Securities Transactions Analyst,
Registered Payments Section.

ALBUQUERQUE, NM,
May 7, 1986.

Mr. W.A. WEATHERALL,
Department of the Treasury,
Registered Payments Section,
Washington, DC.

DEAR MR. WEATHERALL: I wanted to acknowledge receipt of your letter of April 28, 1986 and I enclose a copy of that letter for your reference. I can appreciate the fact that you want to withhold 30% of the tax on the interest payable on my Treasury Notes, however, I think this is just a bit unfair. New Mexico is not only in the United States, but I served as Governor of the State of New Mexico and at the present time, am a candidate for Congress from the State of New Mexico. I have never been a citizen of the Republic of Mexico and do not consider myself as such. New Mexico in fact, is within the United States and has been since 1912. As a matter of fact, it is located equidistant between Texas and Arizona. Colorado borders it on the north. I would appreciate it if you would not withhold from my Treasury Notes because I am not a citizen of a foreign country. As a matter of fact, the Internal Revenue Service can contact me by way of a local call if they so desire. However, I have no intention of contacting them for a refund of anything that has been withheld both illegally and improperly. I can only suggest that indeed there is life west of the Potomac and that it is right here on the Rio Grande. All within the boundaries of the United States. I am not offended, I am only chagrined by your letter.

Sincerely yours,

DAVID F. CARGO,
Attorney at Law.

Mr. DOMENICI. Mr. President, this is not the first time that New Mexico has suffered an identity crisis at the hands of the Federal Government. The State Department has been known to refer my staff to its foreign affairs desk. Grocery and drugstores in the District have refused to honor New Mexico drivers' licenses, stating that it is their store's policy to take checks only from American citizens. When individuals are planning vacations in my beautiful State, there are frequent inquiries concerning visas, immunization, and the relative drinkability of our water. There are 1.3 million people who reside in the beautiful and sovereign State of New Mexico, fifth largest State of the Union, by area. There are no horses that are tied to hitching posts on Main Street. In fact, we have removed most of the hitching posts from most of our cities. We use U.S. currency, not pesos. We have several national laboratories which are at the cutting edge of research. Yes, indeed, we have newspapers in English, we have television and radio, international hot air balloon fiesta, the longest tramway in the hemisphere, Carlsbad Caverns, a missile range there at White Sands, ancient Indian ruins, a world renowned opera, ski resorts, mountains, valleys, and the Rio Grande. New Mexico has another distinction. We have the distinction of being the site of the first atomic bomb detonation in 1945.

As Linda Ellerbe on NBC's Today Show commented:

If New Mexico were in a foreign country, it is likely there would have been an international protest by now and everyone would know us.

Mr. President, we in New Mexico are declaring Friday, June 13, today, 1986, as "New Mexico is a State Day." And that is something we want all Americans to hear about.

I am joined by my distinguished junior colleague, Senator BINGAMAN, in sending to the desk a resolution. We ask for its immediate consideration. We think that the U.S. Senate should help us today. We think we should adopt this resolution. It would set aside this particular day as "New Mexico is a State Day."

Before I do that, I want to state that in addition to declaring this as "New Mexico is a State Day," I added a couple of further resolves, I say to my friend, Senator BINGAMAN, in addition to those that I shared with him. I thought it might be appropriate to resolve further that the Secretary of the Treasury ought to get a copy of this resolution. If he sees fit, perhaps he could circulate it to his analyst who sent the assessment to our former Governor at an address in Albuquerque because he was a foreigner, living in a foreign country. Since the State Department frequently tells my staff that they are sending them over to the foreign affairs desk, I am adding that we send a copy of the resolution to the Secretary of State.

In this resolution, which I am joined in by my good friend, Senator BINGAMAN, who is also from New Mexico, elected by American citizens, we have summarized all the things we are, all the things our State stands for, and some of the things we have contributed to our national wellbeing. We now send this resolution to the desk and ask for its immediate consideration. I wonder if my friend, Senator BINGAMAN, would like to be heard.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 427) to acknowledge June 13, 1986, as "New Mexico is a State Day."

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I would like to first commend my senior colleague, Senator DOMENICI, for bringing this matter to the attention of the Senate. We certainly need to be reminded of this at times, and I think he has found a good occasion to do that.

There are two aspects of it on which I would comment. First of all, if the Treasury Department would check with the U.S. Treasurer, Katherine Ortega, who is a New Mexico citizen from Alamogordo, I think they would certainly have this matter cleared up without us having to pass a resolution.

I would also comment that I think it is unfortunate that my senior colleague chose Friday, the 13th, to bring this to the attention of the Senate. Unfortunately, that was the date that was available and hopefully that will not affect the outcome of the resolution. But I support it strongly and I urge my colleagues to vote for this resolution.

Since Senator METZENBAUM was successful earlier this afternoon with his amendment, perhaps this can succeed as well.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. RUDMAN. I wonder if my friend from New Mexico would yield for a question.

Mr. DOMENICI. I would be pleased to yield to my good friend.

Mr. RUDMAN. I find it very hard to believe that the Department of the Treasury would have made such a grievous error, and I wonder whether or not the Senator from New Mexico might not be missing something.

As the chairman of the Budget Committee, is it possible that because of Gramm-Rudman we have eliminated New Mexico?

Mr. DOMENICI. Well, I plan to leave here in about 45 minutes to go up to the Senator's State. I thought I was going up there to pay him honor and homage. I guarantee I would not be going up there if Gramm-Rudman eliminated us as a State of the United States.

Mr. RUDMAN. Will my friend yield for just one last question? I wonder if my friends from New Mexico might have considered that there might be some advantages to allowing this situation to ripen. After all, if you were expelled from the Union, I expect the Senator from New Mexico would immediately ask for a large block of foreign aid money.

Mr. DOMENICI. Let me say to my good friend, the fate of foreign aid in the national budget is not better than any of the other expenditures. I do not think we would be any better off. But perhaps we will ask New Mexicans if they want to consider that alternative.

Mr. RUDMAN. There is always the other alternative of a foreign military sales agreement with this administration. I expect that the people of New Mexico might like Stinger missiles, Sidewinder missiles and even Harpoon missiles to defend the vast ocean spaces of the State of New Mexico.

Mr. DOMENICI. In fact, we do need it because the Rio Grande does run there. I would tell Senators, however, it does not have any water in it half of the year.

The PRESIDING OFFICER. Is there further debate on the resolution?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I want to thank my friend from New Mexico deeply for bringing this resolution before the Senate and for focusing our attention on the subject. The senior Senator from New Mexico was with me in central Washington on the day on which a newspaper there had a front page story on the subject to which he refers, the confusion in the Department of the Treasury about the status of New Mexico. It was at that point that my attention was focused on this proposition.

Now, Mr. President, I can assure neither you nor this body on the basis of first-hand experience whether or not New Mexico is, in fact, a part of the Union, but I have become a close friend, I might even say a disciple, of the senior Senator from New Mexico over the past 5 years, and I do want to tell you unreservedly, Mr. President, that if the senior Senator from New Mexico states that his place of residence is, in fact, a part of the United States, I am totally and completely ready to accept that statement.

Mr. BOSCHWITZ addressed the Chair.

Mr. DOMENICI. I thank my good friend from Washington. I am reminded, however, even in his State, when I was there, that story appeared. I remember on that evening on television they were commenting that I had been there. As the young commentator finished the new cast, he repeated my name, and them he said, "The Senator will leave Washington for Mexico shortly." [Laughter.]

□ 1520

So maybe we ought to find out that person's name, and we could send a copy of the resolution to his television station, also.

Mr. GORTON. That position has great merit.

Mr. BOSCHWITZ. Mr. President, I rise in opposition to this resolution. [Laughter.]

I am not all rhapsodic about the idea of allowing New Mexico to stay in the Union. Had I been here a little earlier, perhaps I would have opposed its inclusion in the first place.

Mr. DOMENICI. You mean the resolution or statehood?

Mr. BOSCHWITZ. Both. [Laughter.]

I might say that I, too, am identified as a close friend—indeed, as the Senator from Washington said, close to a disciple—of the senior Senator from New Mexico. But that makes no difference.

I say to my friend from New Mexico that if we are successful in defeating this resolution and he moves on to other endeavors, I rise on the Budget Committee—I rise from fourth ranking to third. [Laughter.]

That certainly is a consideration that the Senate will want to consider as it looks at this motion.

Furthermore, there has been a degree of confusion. "DOMENICI from New Mexico"—that itself is almost a contradiction in terms. So that the Department of the Treasury and others are right to be confused.

Mr. DOMENICI. If they are confused about that——

Mr. BOSCHWITZ. I do not yield the floor, Mr. President. [Laughter.]

I might say that there is another consideration. My State of Minnesota borders up against Canada. We have often talked about seceding and joining our northern neighbor, and perhaps if New Mexico would lead the way, we would be emboldened to make this move.

Furthermore, constitutionally, as the Senator knows, I am the only Senator who is forbidden to be President of this country, because I was born abroad. In the event we seceded and created our own Nation of Minnesota, that restriction would be removed.

So when you came with this resolution and you said that New Mexico, suddenly, should get this special consideration, I hastened to the floor in order to raise these objections.

I will not let this lie and will vote vigorously against this resolution.

I yield the floor.

Mr. DOMENICI. Mr. President, we are going to wait until he leaves, before we take the vote. [Laughter.]

I want to make one other comment: There is an objection to this, I understand, and I say to the distinguished acting majority leader that I hope he will help me out. I understand that Senator HATFIELD has objected to our considering this. I hope that you, in your capacity as leader, feel confident enough to let us go ahead with this, or you could see to it that that reservation is removed.

Mr. LONG. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. LONG. Mr. President, if we are going to permit New Mexico to remain in the Union, it seems to me we ought to take a little time and see if we can have a more imaginative name. Arizona got a name of its own. I do not know what the derivation of it was. Colorado is a beautiful name and is something imaginative. I do not know where Texas came from.

Talking about a minimum of imagination, when one from Mexico separates it from Mexico and says, "We'll call this New Mexico," that does not seem imaginative to me.

Mr. DOMENICI. You think of a new one for us, and we will think of a new one for you.

Mr. LONG. Maybe you can think of a new one for New Orleans.

In any event, it seems to me that between now and the time we pass this resolution, or before it is printed, the Senator might at least put his mind to see if he can think of a more imaginative name.

Mr. DOMENICI. I hope we will pass this resolution in about 30 seconds, and I do not have a very good imagination. So I hope you will not hold me to it.

Mr. SIMPSON. Mr. President, when the majority leader asked if I would drop by the Chamber and check on things, I never dreamed I would have to come by just as we were dabbling in this activity. It is very fascinating, I might add—more than I could have ever dreamed of in the way of a resolution.

It is Friday the 13th. A little levity is called for as we grapple with the tax reform issue. Good humor is something I have learned to enjoy from my friend the Senator from New Mexico, a spirited man. When he came on Earth, they called him "Bocci," which has a name in Italy—a red-headed bocci ball. He is one of the most extraordinary of our colleagues.

I see the Senator from Minnesota lurking nearby. He does know his numbers. He referred to the fact that he would be No. 3 if Senator DOMENICI were removed from the scene. He keeps track of those things. He refers to me as No. 57 and refers to himself continually as No. 56, which is more offensive. [Laughter.]

Mr. BOSCHWITZ. Mr. President, will the Senator yield?

Mr. SIMPSON. I yield.

Mr. BOSCHWITZ. If we could get rid of him, I would be 55 and you would be 56. [Laughter.]

Mr. SIMPSON. I am ready for that. [Laughter.] There are really two of us in this body who will never be President of the United States, and they are the Senator from Minnesota, who was born in Germany, and me. I have three electoral votes. [Laughter.]

So New Mexico is a State, so far as I am concerned. A great one. If Senator PACKWOOD is ready to go forward with his labors, if someone has an amendment by now, we can go forward.

So I say to New Mexico, a land where the canary bird sings bass, you are a State; I pronounce you so; and, in the words of the Wizard of Oz, it shall be so. [Laughter.]

Mr. DOMENICI. I thank the Senator. I will do the same for Wyoming some day.

Mr. LONG. Mr. President, word has reached the minority leader, Mr. BYRD, that this resolution is being considered, and he has sent word to me that I may state for the RECORD that he, too, on behalf of the Democratic side of the aisle, is willing to agree

that New Mexico should be permitted to remain a part of this Union. I want the RECORD to show that. There is no objection on this side of the aisle.

Mr. DOMENICI. I ask whether Senator BINGAMAN wants to thank his distinguished minority leader, Senator BYRD, who is not here but sends his best wishes to us.

Mr. BINGAMAN. I thank him. And I recommend to my senior colleague that he not ask for a rollcall vote.

Mr. DOMENICI. I want to finish this. I do not know what is going to happen.

I do know one thing for certain: Senator BOSCHWITZ will not move up in seniority on the Budget Committee under any circumstance, I assure him, whether we are in the Union or out. We have arranged for that. [Laughter.]

I thought he was going to come here and be nice. It is often very difficult for him to do that, but I thought on this one occassion he would be other than his usual self.

We hope that you would succeed in seceding, because then people like SLADE GORTON would move up in seniority on the Budget Committee, and that would be helpful.

Mr. President, I ask unanimous consent that it be in order to consider the resolution I have sent to the desk on behalf of myself and my distinguished junior colleague, Senator BINGAMAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the resolution?

Without objection, the resolution is agreed to, and the preamble is agreed to.

□ 1530

Mr. BOSCHWITZ. I would like to have at least a voice vote on that, Mr. President, if we could have a voice vote on that.

Mr. DOMENICI. Although the Senator has no right to that after the vote was announced, he can get a rollcall vote. One of these days he will learn the rules. And I have no objection.

The PRESIDING OFFICER. If the Senator will address the Chair, all Senators in favor of the resolution say, "Aye." All opposed, "No."

Mr. BOSCHWITZ. No.

The PRESIDING OFFICER. The "ayes" appear to have it. The "ayes" have it.

The resolution (S. Res. 427) is as follows:

S. RES. 427

Whereas New Mexico was admitted to the Union on January 6, 1912;

Whereas New Mexico is the site of the most diverse and extensive remains of ancient American cultures;

Whereas New Mexico is the home of the oldest European settlements in the Union;

Whereas three unique and independent cultures thrive together within the borders of New Mexico, exemplifying the essence of our Union;

Whereas New Mexico has the largest proportion of native Americans of any State in the Union;

Whereas New Mexico is the home of many natural wonders, closely identified with our Union's heritage, such as the Carlsbad Caverns, White Sands of Alamogordo, and the lava flows of El Malpais;

Whereas New Mexico is the home of numerous manmade wonders closely identified with the Union, such as the ancient ruins of Chaco Canyon, Bandelier National Park, Gila cliff dwellings, the Pueblos of the Rio Grande Valley, and the Santa Fe Trail.

Whereas New Mexico is the home of such uniquely American events as the Hot Air Balloon Fiesta and the landing of the space shuttle *Columbia*.

Whereas New Mexico has contributed such diverse American personalities to our Union's heritage as Kit Carson, Billy the Kid, Smokey the Bear, the first men to cross the Atlantic Ocean in a balloon—Ben Abruzzo, Maxie Anderson, and Larry Newman, the world renowned artist Georgia O'Keefe, former astronaut Harrison "Jack" Schmitt, and hotel magnate Conrad Hilton.

Whereas New Mexico has made extraordinary contributions to the defense of the Union in the past, including the diligent work of our citizens to the Manhattan Project, the unrivaled talents of the Navajo code-talkers in World War II, and the brave lives lost at the Bataan Death March in World War II;

Whereas New Mexico stands in the forefront of our Nation's defense today through the efforts of its citizens at Los Alamos National Laboratories, White Sands Missile Range, Sandia National Laboratory, Holloman Air Force Base, Cannon Air Force Base, and Kirtland Air Force Base: Now, therefore, be it

Resolved by the Senate of the United States of America in Congress assembled, That June 13, 1986 is recognized and acknowledged as "New Mexico is a State Day," and;

Resolved further, That the Secretary of the Treasury and the Secretary of State each be sent a copy of this resolution.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The question now recurs on H.R. 3838.

The Senate resumed consideration of the bill.

Mr. BOSCHWITZ. Mr. President, we have to take care of the more serious business of the Nation. We now turn to the question of passive losses, and a number of Senators are going to speak about passive losses, and indeed I have charts and graphs.

The question of passive losses, Mr. President, concerns people who entered into commercial transactions under the old law. It is still the current tax law, but it will be old I trust when we are done with this tax reform.

I say again to all those present, and to my friend from Oregon, that this is really the first tax reform bill I have ever voted on. It is a true tax reform bill.

That does not mean that all of us consider it perfect, and a number of amendments have been offered here on the floor. I have voted against all those amendments. I am not going to offer an amendment because I want this tax bill to move forward. However, I appeal to my friend from Louisiana and my friend from Oregon that when they arrive in Conference, that question of passive losses, that the question of losses that have been incurred in transactions that have been entered into under the existing law by taxpayers who feel that they relied upon existing law, that be taken into account.

Mr. PACKWOOD. Mr. President, may I ask one question?

Mr. BOSCHWITZ. The Senator from Oregon certainly may.

Mr. PACKWOOD. Is the Senator sure he wants us to move forward with this before we finish the budget resolution?

Mr. BOSCHWITZ. I do indeed—with respect to the tax bill?

Mr. PACKWOOD. Yes.

Mr. BOSCHWITZ. Oh, the Senator from Oregon is pointing out that as I have talked to him over the months that I prefer to move to the budget before I move to the tax bill.

As he knows, that was a reflection not only of the necessity of moving toward the budget which is stumbling along, unfortunately, though it is rather close to resolution, but also from the standpoint I did not think that the tax reform bills that had been offered previously were really very much by way of reform. They were by way of more of the type of reform that the Senator from Oregon and I were accustomed to, just additional law, additional loopholes, if you will, additional preferences.

The Senator from Oregon, the distinguished chairman of the Finance Committee, his colleague, the very distinguished Senator from the State of Louisiana, have swept away a lot of cobwebs in the whole business of transactions and unfortunately in so doing they have said to taxpayers who have entered into financial transactions that you cannot now have the tax consequences of those transactions that you counted upon. Even though the law supported you when you entered into this transaction, we are now going to change the law and change it in effect retroactively.

A number of Senators have agreed to join me in this debate.

I see my friend from Nevada is on the floor now to do so and I know that his timeframe is very limited. If I may, I yield the floor.

Mr. HECHT. Mr. President, my colleagues from the Finance Committee have worked diligently to bring us the tax reform bill before us today. And it is a truly remarkable bill; it is a bill that lowers individual and corporate rates while at the same time insures that affluent individuals and successful corporations pay their fair share in taxes. And it is a bill that I can support. However, this bill has some weaknesses that I feel, once corrected, will make it an even more remarkable piece of legislation.

This bill will apply new tax rules to investors in limited partnerships. While I agree that it is necessary to change our tax policy toward partnerships to control abusive use of tax shelters, the committee bill would go much further than that. The committee bill proposes to penalize millions of legitimate investors who have undertaken investments and committed future funds based upon existing tax laws concerning the treatment of investment income.

I feel this provision to retroactively impose restrictions on these investors is extremely unfair. Both the distinguished chairman and Congressman ROSTENKOWSKI have stated in effect that rules pertaining to investments made by partnerships should not be made retroactive, yet that is exactly what is being done.

Over the past several years millions of investors have, through the formation of limited partnerships, bought land, built buildings and shopping centers, and created rental housing for low and middle-income Americans. The majority of these projects were undertaken as long-term investments. Many of these partnerships are profitable under current law, and will be rendered unprofitable by the changes in the Finance Committee plan. The committee bill would take away the economic benefits that were a critical part of the investment decision that led investors to proceed with these investments. The proposed changes unfairly alter the rules in the middle of the game for investors in limited partnerships.

Mr. President, every effort must be made to change this provision; and I hope the distinguished chairmen will work toward a solution that is fair and equitable for those who have invested in our great Nation.

I thank the distinguished Senator from Minnesota for this time on this very important subject.

Mr. MELCHER. Mr. President, I want to get into this discussion in terms of active losses contrasting to what is in the Senate committee bill and what we hope to accomplish by it in regard to those farmers and ranchers who have losses in one year and through income averaging as is in the current law can average out over a period of time.

The last amendment that was accepted, it was the only amendment that was accepted. It was the last one considered and the only one that was accepted to amend this bill. It was on the transition rule, knocking out a transition rule and taking the $50 million and directing the IRS to come up with regulations that would assist agriculture producers in income averaging.

First of all, the $50 million is not enough but it is a step in the right direction.

What is income averaging for these farmers and ranchers? It is merely taking the losses of one year and offsetting them against the next year or the year after that to figure out what their average income is, that it is allowed for under current law and for a very special reason or series of reasons. It is absolutely essential that when this bill leaves this Senate floor it continue to allow income averaging for agricultural producers.

These are active people. These are active gains or active losses. There is nothing very passive about farming or ranching. But the circumstances that surround these efforts by our agricultural producers may be affected by frost or floods. There may be ice or snow that takes their crop or there may be drought and no crop at all or hail or grasshoppers may wipe out the crop.

It would be sufficient for that reason if it were just nature alone, but there are swings in crop production, there are swings for the good and swings for the bad. In addition to that, there are the economic times that agricultural producers unfortunately find themselves in today and the past few years of serious losses, whether or not they had a crop, even with good crops, even with good production, serious losses, huge losses because the prices are low for their commodities.

This is real life. This is real tragedy out there in rural America. To take away income averaging now would be just driving another nail in the coffin of rural America. We cannot allow that.

□ 1540

Now let me tell you that income averaging for the small producer might be a few thousand dollars loss in one year and a few thousand dollars gain in the next year. For a larger producer, it may be a $75,000 or $100,000 loss in one year and hopefully make up for it in the next year or succeeding years with $50,000 or $75,000 gains. But for these regions, income averaging is necessary for them.

Now, this is an amendment that several of us have presented and have filed at the desk. I might say that the amendment will make up for what it costs in terms of reduction in revenues in this bill by a device that we have decided not to use. It would have affected agricultural endeavors in cost accounting, requiring them to use accrual accounting, knocking out cost accounting, if they had gross sales of over $100 million.

Now there are very few of those, but for several reasons we have decided that we will substitute other sources of revenue for that provision. We will change it; we will modify the amendment. The $50 million that was saved in the last amendment could apply to this amendment.

On the basis of offering an income averaging amendment to this bill, there are several organizations that have endorsed that type of an amendment: The Center for Rural Affairs, Communicating for Agriculture, National Association of Wheat Growers, National Cattlemen's Association, National Corn Growers Association, National Cotton Council, National Farmers Organization, National Farmers Union, National Grain Sorghum Producers Association, and the National Pork Producers Council.

Mr. President, I ask unanimous consent that, at the conclusion of my remarks, this letter to all of us be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MELCHER. Mr. President, this is the least we can do on this bill. There will be other amendments that we will offer to this bill to make it feasible and practical for agricultural producers; to make it fair and equitable for miners, for those who go into the ground and mine out the minerals of this Earth, and for those who are forest producers. They also have problems with the bill.

To pass this bill without correcting it would be the saddest of all days here in this U.S. Senate. We have to make these changes because they are necessary, they are necessary for the well-being of the basic industries. They are necessary for the good of the economy of the United States.

It has been difficult up until now to get all the information that has been necessary to draft these amendments. Now that we are getting that information from the Joint Committee on Taxation, so we know where the revenue loss would be and know where we can make up that revenue loss so we can offer an amendment. We are just getting that information now. We will have to circulate these amendments. We will have to make them known to the membership of this Senate so that we can get some votes for them and make some corrections in the bill. We hope to be able to begin to do that on Tuesday.

Some would say, "Well, why are we not ready today or Monday?" Let me tell you, very frankly, it has been im-

possible to be ready today. And since it is over the weekend, it will be impossible to contact other Senators to let them know what our amendments have and we will have to delay until Tuesday.

We would like to be ready as of now but that is impossible. We would like to be ready by Monday, but that is impossible. We have to have the opportunity for every Senator to know what is in these amendments.

There is no stampede to get this bill off the Senate floor, to make a big rush, to make it seem we cannot consider the people's business here on a very vital subject on how they are going to pay their taxes and how much tax increase they may have. That would not serve our purpose and would not serve the benefit of the good people in this country. All the people in the United States, big or small, from East to West, and North to South, are entitled to know what is in this bill and how it will affect them if it is passed.

So we must offer these amendments in good faith, must offer them on behalf of these people and make sure that we attempt to make the proper correction. Hopefully, we will win on our amendments to make the bill reasonable, practical, workable, fair, equitable, all these good things. But above all, to allow the basic industries—farming and mining, forest products, people on the land—to be able to continue to be in business and not be taxed out of business.

I thank all of my colleagues for this time I have taken to present these few remarks. I look forward to engaging in the coming debate next week.

EXHIBIT 1

NATIONAL ASSOCIATION
OF WHEAT GROWERS,
Washington, DC, June 13, 1986.

DEAR SENATOR: The below-signed commodity and farm organizations encourage adoption of an amendment to the pending tax reform bill in the Senate which would continue in income averaging election for farmers.

We believe that income averaging, or similar adjustment, for farmers with fluctuating income is essential to the principle of fairness which the tax reform bill strives to achieve. Without the ability to elect income averaging during periods of cyclical income, farmers would be penalized under the tax code. Taxpayers with consistent income pay less taxes than those who earn the same income over a three or four-year period, but with greater variation from year to year. This will still be true under a two-bracket system.

We urge the Senate to act to ensure that farmers and ranchers are not unfairly penalized by the repeal of income averaging.

Sincerely,

Center for Rural Affairs, Communicating For Agriculture, National Association of Wheat Growers, National Cattlemen's Association, National Corn Growers Association, National Cotton Council, National Farmers Organization, National Farmers Union, National Grain Sorghum Producers Association, National Pork Producers Council.

Mr. ZORINSKY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

RETROACTIVE PROVISIONS OF H.R. 3838 SHOULD BE REMOVED

Mr. ZORINSKY. Mr. President, I rise today to voice my opposition to the retroactive effective dates contained in the tax reform bill.

As reported by the Finance Committee, this bill repeals the investment tax credit effective January 1, 1986. It also strictly limits the deduction investors can take for losses they incur from certain investments even if the investments were made when the law permitted full deduction of the losses.

These provisions are unjust and cast a long shadow over the Finance Committee's bill. It simply is not fair for us to change the rules in the middle of the game.

I submit to you, Mr. President, it is like taking the NBA basketball games and adding a fifth quarter if you are behind in the fourth quarter when the game began under the assumption that there would be four quarters in the game. There are a lot of businessmen that have made business evaluations—borrowed money from a bank, committed themselves and possibly even members of their family as cosigners on a note that a business entrepreneurship would make economic sense based on current tax law—only to wake up one morning and find that the faith of our Government had eroded to the extent that no longer had the credibility that he could count on the word of our Government to make that loan, and now he is committed to pay back the loan without the rules of the game that he began with economically.

□ 1650

We passed laws in this very Chamber; people went out and made financial decisions based on those laws; and now we are leaving those hard-working people holding the bag.

The ultimate consequences of changing these laws retroactively can only be guessed. Mr. President, one thing this bill does not need is another element of uncertainty. Bankruptcies and foreclosures may result for many real estate companies. Where once we had taxpaying citizens, we will now have empty offices. But the experts cannot say with certainty what will happen, so we are left to guess in the dark. That is no way to make tax law.

And what about the Federal Government's credibility? These provisions set a terrible precedent that every year we might go back and change the tax laws and wreak havoc for untold business decisions.

I am not adverse to changing laws. But I think the least we can do is grandfather people in who have made these economic decisions under current law, and let them through attrition phase out of that decision rather than retroactively wake up and find out that they are financially broke.

We will inhibit risk taking and investment because no one can count on the Government to act in good faith. Is this the message we really want to send?

I have heard outrage over the retroactivity of these changes from all corners of Nebraska. Investors made purchases with the understanding that they would receive the investment tax credit. Limited partners invested money with the understanding that all losses could be deducted from their income. They counted on Congress to uphold the laws that Congress passed, and this bill lets them down.

Can you imagine this kind of behavior by any other entity in the business world? I shudder to think how fast the lawsuits would fly if a bank or an insurance company or a contractor or a manufacturer suddenly and unilaterally altered the terms of an agreement it made.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ZORINSKY. Certainly.

Mr. LONG. Mr. President, there is much merit in what the Senator is saying. But on the other hand, I urge the Senator to consider the fact that business has been on notice that the repeal of the investment tax credit has been recommended by the President since November 1984.

I would be the first to agree with the Senator. Not everybody had a lobbyist up here in Washington or sombody watching the Wall Street Journal or the tax notes of the various publications and all of that. But business generally was on notice since the end of 1984 that this was being recommended by the President, and I think they have to realize that this thing might happen to them. If they had signed that contract before the beginning of this year, they would have been protected under the language in the bill. Even then, some of those who did not come in in time are carried forward with these transition rules that we have here in the committee.

So I am sure the Senator knows that while I am sure there will be many cases of hardship, many cases have been considered and we hope that most of them have been taken care of.

Mr. ZORINSKY. I agree with my distinguished colleague from Louisiana and certainly I know the trials and tribulations that the Senator from Louisiana went through with many. I agree with you. People have been put on notice many months prior to now. But I submit to the Senator, if I took

seriously every action that this body had put people on notice of, the entire economy of this country could come to a stop because this body never does anything about what we put people on notice of half the time.

I was a businessman for 35 years before I became an elected official. If I ran my business the way this body is run, I would have gone broke years ago because this body not only makes hypocritical commitments, and pronouncements, and even in the international marketplace, we told people that for a couple of years we are going to sign SALT II. Then our President went and signed SALT II. Today, do we have SALT II? No. We do not have SALT II. We are not even worried about SALT I anymore.

So I agree with the Senator. We put people on notice but a businessman cannot operate on notice. He has bank commitments, he has inventory, he has stock, he has accounts receivable, and he has an accountant that tells him how to invest his money. He cannot stop everything waiting for the great, mighty U.S. Congress to decide how reliable or unreliable they may be in the pronouncement of an early warning saying this is what we are going to do.

Mr. LONG. Mr. President, I hope the Senator will advise his constituents that nobody can predict with any confidence what Congress is going to do. All you can do is take your chances. But you can probably take your chances better if you try to follow day to day what is being recommended up here.

Mr. ZORINSKY. Again, I think what it boils down to is I am not an attorney, but I speak from my business experience. As a businessman all I had was my word. I could not buy my word. The only way I could do it was substantiate it through time and time again honoring commitments I made.

I say this Government made a commitment in current law that once exercised by the general public in an economic marketplace with a decision should have its government honor the credibility of that commitment that it made in the marketplace with that individual. I am not saying we should not change law. But I am saying our word is our bond.

We on Earth are all created equally. Where we can differ is if we want to lie to one another, if we want to be false to each other, but those that honor their commitment, that their word is their bond, in my day you did not need 10 lawyers and three accountants looking over your shoulder if you sold a $30,000 piece of goods.

Today, you have to have 10 copies, you have to have 10 copies, you have to go certify it, you have to register it with the clerk at the court, and then generally sue to get what happened in the deal that you made.

All I am saying is that we erode our credibility often enough. We should honor commitments whether they be personal or in Government.

The Finance Committee bill goes a long way toward getting tax consideration out of financial decisions. I will be the first to support you. I think it is good. Let us once again start making business judgments on profitability of putting a package together rather than relying on the Federal taxpayer to subsidize the success or failure of that package.

Those that operate it again by the law we have in place when they made the decision, I think should be grandfathered in.

We in Congress would probably try to outlaw such behavior by anyone else. Yet here we are about to commit that very crime against the entire economy.

The Finance Committee bill goes a long way toward getting tax considerations out of financial decisions. But these changes should be prospective, not retroactive. In fact, the chairmen of the Senate Finance and House Ways and Means Committees have said as much over the course of this tax reform debate. They should heed their own advice.

I had intended to offer an amendment during this debate that would have eliminated all retroactive changes in the Finance Committee bill. With the knowledge that this would be futile, I will not offer such an amendment.

Instead, I join my colleagues in imploring those who will be the conferees on the tax bill to right this wrong in conference. It is our last chance. We are abusing the trust placed in us by retroactively changing these laws. Without this trust, our entire economy breaks down. I urge the conferees to restore some credibility to Congress and remove the retroactive provisions of H.R. 3838.

Mr. MOYNIHAN. Mr. President, may I ask the Senator a question? May I say as a member of the committee I am concerned. The proposal to eliminate the tax shelter device of deducting passive losses from positive income is a measure that I have advocated for some time. The ability to use a passive loss as a deduction against positive income is at the heart of every tax shelter. Now we will put into the Tax Code, as fundamental principal, a prohibition on this artifice. But would the Senator be aware, I think he might be, that a number of agricultural organizations—the Cattlemen's Association for example—have said that these tax shelters, which are only entered into for the purpose of generating passive losses, have actually distorted many sections of agriculture in ways that have not helped real farmers, or real cattlemen, at all.

□ 1600

Mr. ZORINSKY. I totally agree with the comments of the Senator from New York, that it has had adverse effect on the economy in numerous instances in agriculture. I would be the first one in support of this tax reform package in prospectively correcting that deficiency. All I am saying is that for those who have gotten away thus far, it would be less than honorable in my mind to go back and say, "You now are living by a new set of laws."

Mr. MOYNIHAN. I think the Senator is making a perfectly respectable point, that we have to be sensible and fair about this.

I would just like to make note of the fact that we on the Finance Committee were aware not only of the tax-induced distortions in real estate, barges, and freight cars and the like but also in agriculture.

Mr. ZORINSKY. Absolutely, and I applaud the committee for the cessation of that type of subversion in avoidance of paying taxes.

Mr. President, I would like to conclude by urging the conferees to restore some credibility to Congress and remove the retroactive provisions of H.R. 3838.

With that, Mr. President, I thank my colleagues for their kind attention, and I yield the floor.

Mr. ANDREWS addressed the Chair.

The PRESIDING OFFICER (Mr. DURENBERGER). The Senator from North Dakota.

Mr. ANDREWS. Mr. President, in reading the committee report on the tax bill's passive loss section that the Senator from Nebraska and the Senator from New York had their recent colloquy on, I see a great deal of ambiguity in the definition of material participation that could raise havoc on the family farms of America.

Let me share with you, Mr. President, where my concern lies.

These characters in the Internal Revenue Service would not know a steer from a heifer. They have no idea of how an American farm works. They are the ones who wanted us to start a log book on the use of the family farm pickup.

Mr. President, that pickup on the average farm is used by our kids, by our uncles, by our cousins, by our hired men. You get into it and you run out into the field with some fuel for a swather. Someone else gets into it and runs to the elevator for a moisture test. Someone else gets into it and goes into town for repairs. There is no way you can keep a log.

We made the point. We made it here in this body. Even though we passed legislation correcting it they interpreted it and they reinterpreted it and they misinterpreted it and we had to correct it yet again within the last month.

Mr. President, in this passive loss section they have done it again.

What do you do on a family farm if they say you have to be a material participator to set your income off against your farm loss?

Many farmers are finding the only way they can make ends meet is for the farm wife to teach in the country school. If they interpret this section too narrowly, the wife's teaching earnings cannot be applied against the farm losses.

That is not the intention of the Finance Committee. At least I hope it is not the intention of the Finance Committee.

Mr. President, some time ago we had another problem in this whole question of material participation or actual participation. It had to do with the estate tax, when you pass a farm on from one generation to another.

It could not qualify for the estate tax deduction in the minds of the IRS if it had been handled by a cash rent instead of a crop share rent.

Mr. President, fully half of the rental agreements between families in my part of agricultural America are done now on cash rent.

I wrote the IRS pointing out how unfair this was to American farm families less than a month ago, Mr. President. I got one of those typical four-page letters back from the Office of Chief Counsel of the Internal Revenue Service saying:

> No, if cash rent had been employed there was no material participation and, therefore, it was an arm's length transaction and that family farm would be treated as a family farm.

I think we have to recognize, Mr. President, that it is important to keep these tax loss seeking passive nonfarmers from competing with the legitimate family farmer.

I do not have any doubt about the fact that those 400 head of four-legged losers that I have on my feedlot on my farm are doing a lot less well than they would have done if we had not had tax loss cattle feeders in there offsetting other income and getting into something they know nothing about and glutting the market at the wrong time, hedging it away on the mercantile exchange.

I am all for that. I have supported ways of getting that kind of investment out of agriculture time after time after time.

Mr. President, you do not throw the baby away with the bath water, and when you get the IRS agents trying to interpret the difference between cash rent and crop share rent on family farms, when you get a rule, a passive investment rule, a passive loss section, that would say if the farm wife got a job in town or the father got a job and they could not offset that income to make the total family income go on a troubled farm today, that is going too far.

That is not what the committee, I am sure, had in mind.

I would hope, Mr. President, that we will have the opportunity to get some feeling for what the IRS is going to put in the written regulations so that we are sure that this does not happen yet again. It would be my hope that this colloquy which has been entered into by a number of us from rural America, Mr. President, will point out to the IRS that we have a specific problem in rural America.

The regulations, as I pointed out earlier, that the IRS published in the matter of logs on the farm family pickup were totally contrary to the intent of Congress and, for this reason, tax counselors continue to advise their clients to keep contemporaneous auto record logs.

Farmers are not necessarily good bookkeepers. Farmers should not have to pay $2,500 to $3,000 to some MBA to keep their farm books because the Tax Code on agriculture is so complicated that a farmer cannot understand them.

Similarly, IRS inspectors should not get into the business of farming when they do not know the difference between cash rental and crop share rental.

The thing I am pointing out, Mr. President, is that it would be my hope that in this passive loss section we do not do away with the ability of a farm family to pull together, as they have for so many decades in troubled times, pull together by getting some jobs in town and offsetting the farm losses for a period of time when the income is down, through their talents to keep that farm going until the farm economy bails itself out.

I would hope that my colleagues would join me in making sure that the IRS applies that kind of a definition differentiating between the investing in agriculture for profit from wealthy people from outside the field and the difference in investing within a farm family, with a city job which is necessary to hold that family farm together.

That is really the essence of our concern and that is what we have to make sure we have nailed down so that those farm families can continue to have a chance to hold on.

Mr. GORE. Mr. President, I join my colleagues in this colloquy to express my opposition to the proposed phase-in of passive loss provisions contained in the Finance Committee's bill.

I commend the authors of the bill for the objectives they are trying to reach. I understand the problems of passive loss deductions they are trying to address, and I think the committee's bill addresses legitimate concerns. But I think in some important respects the bill goes too far. Many people are not aware that, in effect, these passive loss provisions are retroactive. That is really the essence of the problem we are discussing here today.

Passive loss investors enter into projects with a series of assumptions about the performance of their property as an investment. Especially in the case of residential and rehabilitation projects, little positive cash flow was anticipated, in many instances, under the law as it is written.

As a result of the proposed changes, only large real estate investors will be able to take advantage of passive loss provisions. This is unfair to the small investors and to those undertaking residential and rehabilitation projects.

As a consequence, those who have already invested in projects will find that they are no longer viable and will either take a loss or in some extremes, experience foreclosure. Some financial institutions will also find themselves in trouble. In short order, those contemplating a project will likely abandon their plans, unless some relief is given to these passive loss provisions.

□ 1610

Mr. President, it is important to realize that the proposed changes in question here apply not just prospectively but to existing owners and investors. There is a retroactive application that affects the expected yield fairly dramatically. So I hope, along with my other colleagues who have been addressing this subject, that Congress will take a very close look at this provision. There are several ways to deal with this problem. At the very least, we must extend the transition period for existing projects in order to be fair.

Above all else, tax reform professes to seek this goal of fairness. In this instance, in the pursuit of legitimate goals and in the process of addressing problems that very much need to be addressed, we have lost sight of the principle of fairness. In this case, fairness dictates a different solution. Investors have entered into their projects legally and in good faith. By remedying the passive loss phase-in problem, we can do the same.

I yield the floor, Mr. President. I thank the Chair.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, no one denies the fact that the present tax bill before us addresses many of the inequities that people were concerned about—closing so-called loopholes, broadening the tax base, reducing rates. But you have yet to hear anyone point out to me how it is fair, how it is justifiable, and how we have not broken faith with the American people in passing a law that has an

impact on conduct that not only was permitted but, in some cases, encouraged; how millions of Americans have entered binding contracts under a tax law that we now change not only prospectively—for the future—but with retroactive provisions and impact.

I think the desirable end of reforming the tax system should not be achieved through means that violate the basic American belief in fairness and equity and which invites scorn for our laws and for Congress in the future.

If we today adopt a bill which really says, "Look, notwithstanding what the law was yesterday, there may be a change and you will feel the consequences not for your future acts but for that which you undertook when the law was as it was," I believe that we set a dangerous principle, one that we are going to regret, one that will be felt in the sale of so-called tax-free bonds when people begin to wonder—well, they may need money to close the deficit; or who is to know when Congress will once again do what it did in the past? Who is to know that those bonds will always yield income that is tax-free? After all, if they disallowed certain losses once before that affected millions of people and it cost those people $60 billion—and that is what I understand this change in terms of retroactive effect will yield—they may gain $60 billion from the Treasury, but who is losing that?

Those are American citizens who were induced to invest under the Tax Code as it existed, and then find that the rules and the rate structures have been changed.

I hope, and I know it is not an easy task, that the committee in its deliberations in the conference would look to ease what otherwise will be a tremendous burden on the people who, in good faith, made investments based upon what the code was. I think we should be very careful if we continue on this path without attempting to alleviate the harmful effect that this will have—as to what faith and confidence people will have in the future in terms of our Tax Code; in terms of the municipal bonds and the Treasury bonds we put out; in terms of the tax-free aspects; in terms of many aspects when we attempt to maybe revitalize a segment of the economy and attempt to induce people to invest dollars only to see the code changed to their detriment.

Mr. President, I think this takes on a moral issue of doing what is right. Simply to say, well, those are people who have substantial incomes, those are doctors who have invested in these real estate deals, those are attorneys who are earning large sums of money; after all, so what; they are getting the benefits of a reduced rate—I think that is a rather cavalier attitude. I hope that we can find a way to ease what would otherwise be, I think, a tremendous burden on many millions of people. I do not think that is what we want to do with this tax reform package, hurt those who followed the law. I believe that this is a misapplication of tax reform.

Mr. President, I yield the floor.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASING CONFIDENCE IN THE TAX SYSTEM

Mr. MATSUNAGA. Mr. President, one important accomplishment of the tax reform bill will be to increase public confidence in the income tax system.

This will serve to increase public confidence in Government, because the income tax return may be the most frequent source of contact between citizens and Government.

It is important that the public support the income tax, because it is a basically fair way to allocate the burden of paying for Government services.

□ 1620

The theory behind the income tax is that it is fair to raise taxes based on ability to pay. The theory also provides that net income is a fair measure of ability to pay.

Although the income tax is not the only fair kind of tax, the fairness of the income tax is sufficiently high that we probably should continue to rely on it as our primary source of Government financing.

Because we need to rely so heavily on the income tax, we need to be sure that it works smoothly as a largely self-enforcing system. That of course requires voluntary compliance, and voluntary compliance of course requires public confidence.

The bill takes account of two very basic characteristics of American taxpayers. The first is that they are generally willing to report their income correctly and pay the taxes they owe. The second is that they do not want to feel like suckers for doing it.

Under the current system, many taxpayers do feel like suckers for not getting into exotic tax shelters that they do not even understand. This bill now before us says to them, "Those days are now going to be over as soon as the Congress passes this bill. From now on, everyone pays tax on his salary, interest and dividends, and that tax cannot be avoided through tax shelters."

The bill also says that any corporation that reports a profit to the public must pay Federal income taxes. This will end the situation where working men and women mail in their tax return, showing thousands of dollars of taxes paid, and then read stories in the newspapers about a corporation paying no tax on millions of dollars, if not billions of dollars of profits. Those taxpayers very justifiably feel that something is very wrong with our state of affairs.

The bill also rewards the kind of person that the current system unjustly penalizes. The person who is frugal, who does not borrow to finance current consumption, and who invests his funds to maximize income and safety gets a fair shake in this bill. And we need more of those people, to increase savings that can be devoted to modernizing American industry.

It is wrong for our current tax system to show favoritism toward persons who borrow to live beyond their means and invest for tax advantages. This bill corrects that situation by limiting the use of tax shelter losses and by phasing out the tax subsidy for consumer debt.

Now, the person who saves will not be made to feel like he is missing out on tax benefits. Instead, he will be encouraged to save by the low marginal tax rates in the bill. In addition, the bill dramatically lowers the marginal rate of tax on increases in income that can result from prudent savings, such as compounding interest on savings accounts and certificates.

To conclude my remarks Mr. President, this bill is built with the honest, hard-working, frugal American taxpayer in mind. It tells him that he is doing the right thing and encourages him to do more of it. That is the real backbone of this legislation, just as that hard-working taxpayer is the backbone of this great American system of ours.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, first let me thank my good friend from Minnesota [Mr. BOSCHWITZ] for bringing the problem of retroactivity to the Senate in the very significant way that he has this afternoon.

This tax reform bill is said to be guided by the principle of fairness. But one of the basic guideposts of fairness is keeping your word, of not sandbagging people, of not changing the rules in the middle of the game. Unfortunately, this bill, which its proponents assert is dedicated to the principle of fairness, falls short of meeting this guidepost.

It falls short in a number of ways. Just a few examples. First, in the areas of consumer credit and investments, this bill changes the rules in the middle of the game. Let me make clear from the outset that I have great sympathy with the goal of eliminating tax shelter abuses which exist in certain investments. Many tax shelters do

result in some people not paying their fair share and a shift of the tax burden to average working people, and meet no useful social purpose.

That should be corrected—but it should be corrected in a way consistent with our values. This country values fairness—it values due process. In that spirit, if someone went into an investment in reliance on the current law, then that person should not be tapped on the shoulder by this Senate and told "sorry fella, the rules have changed."

It is said by some of the proponents of this tax bill that this bill will increase the trust that the American people have in their Government. How does the Congress do that by passing legislation like this that includes a section which is a fundamental breech of trust? When a parent took out a loan to pay for his kid's education, he took it out on the assumption that the interest would be deductible. Perhaps he was on so tight of a budget that he was only able to take out the loan and have ends meet because the interest on that loan was tax deductible. How in the spirit of fairness can we now turn to that person and tell him that while his reliance was justified, and reasonable, it was also meaningless? It is not consistent with the spirit of fairness to make some of our people think that they have been played for fools.

Now, it is true that there is a phase-in period during which time a decreasing percentage of the current tax advantages are allowed. That lessens to some degree the retroactive effect. But why, when we have a bill which is supposed to be governed by fairness, do we allow any retroactivity which is built into this bill? Why is it built into the very structure of the bill and essential to having the numbers add up? For a bill advertised as a pedestal of fairness, here is a very rotten leg, indeed.

The second area in which the retroactivity in this bill falls short of the guidepost of fairness deals with the transition rules. Probably like all of my colleagues, I have received a number of requests over the past few days from businesses for help in obtaining a transition rule for themselves. It is clear that many of these requests are meritorious. These are businesses that have taken specific, concrete actions in reliance on current law which will now find that the rules will be changed and will apply to them. I have great sympathy for their situation. It concerns me. But what really even concerns me more than plight of the people who have the wisdom and the expertise to seek these transition rules are the thousands of businesses in my State and across the Nation which are not in the position to seek transition rules but which will be affected by the retroactive provisons in this bill. For a bill which is promoted as an assault on the special interests, the selective relief given by these transition rules will breed dissension, distrust, and disillusionment.

It is for this reason that I am considering offering an amendment expressing the sense of the Senate that the Treasury submit legislation to the Congress, if a tax reform bill is finally enacted into law, which in truly generic terms provides for transitional relief for all businesses which are similarly situated in fundamental ways to the businesses which are provided transition relief in this tax bill. I would hope that those who are now proclaiming the fairness in this bill will press for the passage of such legislation.

Let me close by discribing the following situation which could occur after the passage of this bill. There is a middle income couple sitting around their kitchen table filling out their taxes. They both work hard and sort of resent having to pay as much in taxes as they do. But they hear that this new tax law has provided tax relief for middle income America. They figure out their taxes. Just out of curiosity they take the old tax forms and figure their taxes out under the old law. Much to their surprise, they find they got a tax increase of a few hundred dollars. They are disgusted. They turn on the TV in order to forget their troubles for a while. The news is on. They see a interview with a business executive who is asked how he feels about the fact that his taxes this year are a few million dollars less than would otherwise be the case because he was covered by a transition rule. They shut the TV off in anger. They call their Senator's office for an explanation. What is our answer?

Mr. HEFLIN. Mr. President, the Finance Committee bill contains a provision which would not allow legitimate, economic real estate losses to be claimed against other income such as wages, salaries, commissions or portfolio income. While this so-called "passive loss" rule applies to all limited partnership investments, the only activity managed trade or business subject to this rule would be owners of rental real estate. The bill does allow certain active real estate owners to deduct up to $25,000 in real estate losses against other income. However, this limited exception to the rule is reduced when the active real estate owner's income reaches $100,000 and is totally eliminated simply because the owner's income is $150,000. Included in the losses that would not be allowed under the bill are real, out-of-pocket cash losses. Further, the provision applies to existing as well as future real estate thus further punishing nontax-related real estate investments.

Mr. President, I realize that the intent of the Finance Committee in drafting the passive loss rules is to prevent abusive tax sheltering. Much of this sheltering has gone on through real estate and real estate investors have enjoyed some lucrative years. But, Mr. president, this provision to allow active investors $25,000 of losses only if their incomes are below $100,000 is swinging the pendulum too far in the other direction.

Not only does this provision discriminate against real estate relative to any other activity, but it discriminates between real estate investors themselves based on their income. We live in a society that is supposed to allow people to share in the rewards of success. However, this provision punishes active real estate owners who have been successful and have incomes over $100,000 by saying, "Yes, we will consider you an active real estate owner, but because you have a certain income, you will be denied a deduction that someone who makes less money can take."

I'm not saying we should go about looking for ways to provide preferential treatment for wealthy indivduals. But I don't believe we should punish people and discriminate against them because they have had a certain amount of financial success. If an individual meets a certain criteria for an exception in the Tax Code, then he should be allowed to take it regardless of his income. This provision rewards the underachiever and punishes those who are successful and that is wrong. Our country would never have gotten to where it is today if we punished people for getting ahead.

A further inequity in this passive loss rule, Mr. President, is its disallowance of losses that result from actual out-of-pocket cash expenditures. I believe that if an individual is actively involved in a real estate activity and he has to invest certain amounts of cash to keep that investment going, then he should be able to deduct those cash losses. This isn't sheltering. It's merely taking a dollar's worth of loss deduction for a dollar's worth of cash actually lost. A 1:1 ratio.

Real estate investments often need special cash infusions to help during start-up distressed economic times. Denying deductions for these cash losses will disrupt necessary real estate financing, cause additional property defaults and place new burdens of already troubled financial institutions.

Mr. President, before I conclude I would like to leave you with an example of a typical real estate investment which illustrates the points I am trying to make with regard to the inequities of this provision.

In this example, two individuals decide to purchase together and operate a six unit apartment building in a marginal city neighborhood. The building has been neglected by the previous owner and will require repair and renovation. The individuals decid-

ed on such a risky investment based on the realistic assumption that a planned nearby mass transit system will improve the desirability of the neighborhood and eventually help make their investment a profitable one.

Prior to the arrival of the transit system and the expected evolution of the neighborhood, the individuals expend significant amounts of cash in repair and renovation expenses, mortgage interest payments and taxes that exceed the modest rental income the market allows them to charge.

The losses that result from this investment are true losses to the individuals. There is no justification for these losses being disallowed. Yet the passive loss rule would do just that.

Again, the $25,000 exemption would be available to the individuals if their incomes did not exceed $100,000, but the income of the individuals has nothing to do with whether these losses should be deductible. True losses should be deductible for any active participant in real estate regardless of income because they simply are legitimate losses.

PASSIVE LOSSES

● Mr. MATTINGLY. Mr. President, I rise today to express some concerns I have about this bill. To begin, let me reiterate my past comments that I am very supportive of this bill. I believe it is truly tax reform. But there are some areas of which I am deeply concerned.

The real estate provisions in the bill present some very difficult problems—particularly their impact on existing investments. The loss disallowance provision applies not only to future owners and investors in rental real estate, but it applies to owners and investors who made decisions years ago. While there are phase-in rules for the application of the new investment interest limitation and passive business loss rules, the phase-in would occur quickly and would substantially diminish the anticipated tax benefits of many existing investments. This provision will penalize those investors who have undertaken investments and commited future funds based upon existing tax laws.

Mr. President, the fairness and equity of this proposal concerns me. Is it fair to change the rules of the game for these individuals? Is it good policy to penalize these investors through changes they could not reasonably anticipate? I question whether it is. It is my view that something must be done to address the retroactive nature of these provisions. Whether it be lengthening the transition period, increasing the benefits available in the early transition years, or whatever, there should be a workable solution.

Another great concern I have is the distinction in the bill between active real estate ownership and other business. Why should those individuals who actively particpate in real estate ownership be denied deductions of real estate losses against other income while active participants in other business pursuits are allowed these types of deductions? This concerns me, Mr. President. I believe some consideration should be given to those individuals who are actively involved in the management of their rental real estate.

Mr. President, I do not believe it is correct to penalize those investors who entered into prior transactions in good faith. I believe this is an issue of fairness and equity. It is my hope and desire that the conferees will seriously consider these problems and address them in conference.●

● Mr. BOREN. Mr. President, I commend Senator BOSCHWITZ for initiating this discussion about the problem in the existing bill relating to passive losses. The way the bill now is written, investors, particularly those in real estate projects, could have real out-of-pocket economic losses which they could not fully deduct for tax purposes. I am hopeful that in the conference committee, modifications can be made which will reduce the unfair burden imposed by these provisions. I will certainly work to that end.●

ON THE IMPACT OF RETROACTIVE PROVISIONS ON HOUSING AND RENTS

● Mr. KERRY. Mr. President, first, I would like to commend the Finance Committee, and particularly the chairman, for their hard work, patience and persistence in bringing this issue to the floor for debate. As a supporter of tax reform, I am pleased that we have reached this critical stage.

There are many good features in this tax bill, notably lower rates and fewer tax breaks, which should promote the efficiency of our economy. Lower tax rates will, other things being equal, reduce the role of tax factors in resource allocation and strengthen the role of price signals in the competitive marketplace. Equally important is the relief that this bill will offer to individual taxpayers through lower rates and a somewhat lighter overall tax burden. As we all know well by now, tax reform requires a series of tradeoffs and hard choices if the goal of lowered rates is to be achieved.

One sector of our economy—investment in real estate—in particular has borne the brunt of these changes, and I while I support the bill, I wish to express my hope that the conferees should seek to soften the most acute effects of the bill when they meet with the House.

I refer, of course, to those aspects of the bill that apply to investments made prior to enactment of the bill—investments that, at the time they were made, were consistent with both the letter of the law and legislative intent.

Changing the rules of the game in midplay—which from the investor's perspective is exactly what this bill does—not only will be unfair but also will be economically counterproductive, jeopardizing projects currently underway and unknown numbers of others which may never be built because of the chilling effect that retroactive changes will have on investment decisions.

In this regard, I am most concerned with the devastating effect these changes will have on the cost and availability of affordable rental housing in this country, and with the potential that these provisions will mean increased homelessness and massive rent increases for our most vulnerable citizens.

The use of tax policy to encourage the development of low-income housing is not a newly discovered loophole. Congress' intent to encourage outside investment in low-income housing by providing tax incentives was incorporated into the Code in the late 1960's and substantially predates the relatively recent rush to tax-motivated investments into other areas of real estate.

For most of the 1970's Federal policy recognized the need for a mix of tax incentive with direct outlays, such as section 8 and other HUD Housing Production programs. Since 1981, at the same time that outlay programs were virtually shutdown by the Federal budget cuts, tax incentives for low-income housing investments were made even more attractive. The signal to States like Massachusetts, where the availability of affordable rental housing is the No. 1 bottleneck to continued growth and prosperity, was loud and clear. Led by State government and innovative new housing programs, Massachusetts alone since 1984 has seen exisiting tax benefits used to leverage hundreds of millions of dollars of private capital, leading to the development of some 6,000 new units of rental housing.

The lynchpin of these investments has been the ability of private investors to receive tax benefits in exchange for their investments. Tax benefits are required because these developments require subsidies just to break even—without tax incentives, they simply don't offer enough return to attract private investment.

Any failure to recognize that government policy has been to limit the economic benefits in low-income housing investments to tax preferences provided in the Internal Revenue Code will result in an ironic unfairness to those who, doing what Congress intended, invested in low-income housing.

And while the investors already committed to such projects will have no option but to absorb the loss, others on the verge of investing but who have

not yet done so will have every reason to put their money elsewhere. If investors indeed back off from investments in low-income housing, the losers will be tenants and renters, not to mention public agencies, communities, and construction workers who had projects poised on the verge of groundbreaking.

The 38 State-assisted low- and moderate-income housing projects in my own State of Massachusetts represent just a fraction of the important economic activity that the retroactive provisions of this bill halt. But the impact of the bill on these projects alone is enough to cause serious concern in Massachusetts. I share these concerns, and ask that an article from yesterday's Boston Globe appear in the RECORD following my remarks.

The article follows:

BUILDERS SAY TAX LAW MAY STALL LOW-RENT APARTMENTS

(By Sarah Snyder)

Developer Robert Kuehn plans to build 50 low-and moderate-income apartments in Pittsfield. But if the current Senate tax revision bill becomes law, he said, he's going to make them condominiums instead.

Kuehn is typical of Massachusetts developers who say they will be unable to raise private capital for low-income housing if the bill proposed by Sen. Robert Packwood (R-Ore.) passes.

The bill would no longer allow investors not actively involved in the development of a building, so-called limited partners, to use property for tax deductions. Without those tax benefits, as many as 3,000 subsidized rental units planned for Massachusetts could be jeopardized, according to Patrick E. Clancy, executive director of Greater Boston Community Development Inc., the largest nonprofit developer of low-income housing in the country.

Housing experts say people who invest in subsidized, low-income housing projects do so almost exclusively for the tax shelter, which is primarily the depreciation of the building. Tax benefits from depreciation apply to other real estate as well, but they are greater for subsidized housing because depreciation time is faster. Congress wrote current tax law this way to lure investments in subsidized housing.

If the Packwood bill is passed, "There will be no subsidized housing built, period" in Massachusetts, said Eugene F. Kelly, chairman of the Developers Council of the Builders Association of Greater Boston, an industry group specializing in subsidized housing.

In the case of Kuehn's planned Pittsfield building, the change in law would work like this:

Kuehn, a partner in Housing Economics in Cambridge, is looking for perhaps 10 investors to put up $50,000 each over five years. Under current law, he said, investors would get an estimated $20,000 to $25,000 in depreciation on the building each year. For an investor in the 50 percent tax bracket, that is $10,000 in taxes saved a year. The Senate bill would reduce that tax benefit to zero if the investor had no real estate earnings.

CONDOMINIUMS PROBABLE

"No one in their right mind is going to invest" under those conditions, Keuhn said. So, rather than 13 low-income and 37 moderate-rate apartments, he probably would build condominiums.

Mathew Tharl, executive director of Fenway Community Development Corp. in Boston, said the bill would have the same effect on his group's Fensgate Co-operative on Hemenway Street. Tharl is looking for investors to put up $1.4 million to help finance the 46 apartments, 32 of them for low- and moderate-income families.

"The bill basically undercuts at least $550,000 worth of tax shelter" for investors. Tharl said. "We would have to turn much more of it into market-rate housing, maybe jettison the co-op structure, and make them condos."

Marvin Siflinger, executive director of the Massachusetts Housing Finance Agency, said the threat of dozens of subsidized rental buildings being converted to condominiums is a "worst case scenario" and unlikely.

"We have been working very hard with senators Kerry and Kennedy to work this out" by amending the Senate bill, Siflinger said. "I think we are going to achieve success."

MITCHELL AMENDMENT

Clancy said low-income housing advocates are backing an amendment by Sen. George Mitchell (D-Maine) that would allow investors to keep their tax write-offs on low-income housing for six years.

Robert Whittlesey, executive director of the Boston Housing Partnership, which has developed 700 low- and moderate-income units in Boston in the past two years, said, "The Packwood bill as now written is almost a wipeout for us."

He said the only way the partnership was able to build those units was through existing tax benefits for investors.

The Senate bill would offer direct tax credits to future investors in low-income housing as a substitute for the current tax write-offs. In effect, investors would get cash back from the government for every low-income housing unit in which they invested.

ON REAL ESTATE PROVISIONS OF TAX BILL

(By request of Mr. DOLE, the following statement was ordered to be printed in the RECORD:)

Mrs. HAWKINS. Mr. President, in most respects, the Tax Reform Act of 1986 is a worthy bill. Congress has rarely been so single-minded in its desire to write a fair and rational tax bill. It is a historic piece of legislation, and I commend my colleagues on the Senate Finance Committee who have labored so diligently over these past months to construct it.

Congress now has the opportunity to create a system that minimizes tax loopholes and other unfair advantages for the wealthy, and maximizes fairness for all taxpayers. However, the bill is insensitive and unfair to existing real estate investors and tenants of residential housing units.

The real estate industry expects that close to 350,000 rental units will not be built in the first year after the bill becomes law, since the present incentives for real estate development will be eliminated. Moreover, since far less capital will be available for residential housing projects, rental costs in existing units are expected to increase by an average of 20 percent.

Mr. President, Florida and the Sun Belt States are undergoing a historic demographic shift. Many have left their homes in the Northeast and Midwest to seek opportunities in Florida. We in Florida do all we can to provide adequate housing and employment. In fact, since the mid-1960's, Florida has more than doubled its total housing stock in response to this migration. As this trend continues, new homes and apartments will be required. How will these homes be built if there is little or no incentive on the part of private investors to build them? H.R. 3838, as reported by the Finance Committee, will severely constrict the building of future housing projects. As an additional consequence, as the supply of homes and apartments diminishes, the continuing demand will increase rents significantly. Finally, the declining supply of capital will result in deferred repair and rehabilitation of existing property, a decline that will adversely affect all tenants and their communities.

Mr. President, there are several elements relating to the treatment of real estate and I urge my Senate colleagues to consider as they enter the conference with the House. I fear the real estate sector will be shouldering an unreasonably large burden of what is otherwise a fair and equitable piece of legislation.

One of my concerns is the effect the proposed transition rules as they relate to investors who are currently under legal obligations to contribute capital to newly constructed real estate developments. Since the Senate Finance rules apply retroactively, Congress will be creating a situation which will require these investors to decide either to continue their contributions at a loss, or to default on their obligations. They will certainly default if it makes economic sense to do so. Congress should not pass a bill which unintentionally encourages defaults on projects which are currently serving such a critical housing function in Florida and around the Nation.

Under current law, real estate investors may offset losses on real estate investments against gains made in other investments or businesses. Most investors typically make capital contributions to a real estate venture over a period of 3 to 7 years. These so-called "staged phase-ins" cover the costs associated with new developments, such as debt service and operating losses, frequently encountered during the early stages of a residential or commercial development.

The proposed transition rules make no distinction between investors who have completed their capital contribution requirements, and those who have just begun or are in the midst of their

obligations. Since the transition rules make no distinction, these investors will be affected differently.

I suggest that a grandfather provision is a fair legislative solution to this problem. At the least, the transition rules should permit these investors to deduct their real economic losses up to the level of their capital obligations in any year. Congress should permit this regardless of the fact that these levels exceed the allowable percentages otherwise included in the tax bill.

The grandfather provision would create a favorable economic environment in which investors will be able to complete their capital contribution obligations. Congress must allow for such a reasonable deduction of losses and investment interest. Otherwise, we will be held responsible for a potentially disastrous situation in our Nation's real estate and banking industries.

I am also deeply concerned with the impact of the bill on future investments in residential property. Decent and adequate housing for all Americans is a worthy goal which Congress must seek to achieve. Unfortunately, under H.R. 3838, future investors looking at their options will have no economic incentive to invest in residential development. Our Nation, and especially high growth States like Florida, continues to rely on residential real estate developers to meet our housing requirements. As our population in Florida increases each year, I am concerned that this tax bill will destroy the necessary environment in which the required capital will be made available by investors in the coming years.

Limited partnerships in real estate have provided incalculable resources in the building of real estate developments. They have provided the tens of billions of dollars which have built our homes, our shopping centers, and our office buildings.

Current law allows for full deduction of all losses associated with the partnership against any income from any other source. This tax incentive has fueled the residential building industry, and has helped meet the great demand for residential developments.

It cannot be denied that this provision in the current Tax Code is abused. I strongly endorse the concept of restricting overly generous deductions for these investments.

However, the Finance Committee bill goes a bit too far. In essence, it denies any deductions whatsoever of these so-called "passive losses."

Mr. President, if investors do not provide future capital, who will pay the bill? It seems clear to this Senator the answer is the tenants. The tax bill will create huge rent increases for tenants living in residential housing developments.

Indeed, Mr. President, while it is difficult to forecast such matters accurately, industry experts predict that rents in residential property will increase by at least 20-30 percent over regular rent increases. I fear renters in my state will be faced with even higher rent increases, as demand for rental houses rises in the face of decreased supply.

Mr. President, it would be absurd if Congress were to pass a tax bill which ostensibly reduces the tax liability of middle-income Americans on one hand, and on the other hand will gobble up any potential savings with huge rent increases. In addition, rent increases will adversely affect the lives of all Americans living on fixed or limited incomes. In Florida, I refer to our retired citizens, and those living at or below the poverty line.

H.R. 3838 also unfairly modifies the rate of depreciation on existing residential and commercial property. Rental apartments will be directly affected by the changes proposed in the tax bill. The bill establishes an arbitrary figure of 27.5 years as the period of time over which residential property may be depreciated on a straight line basis.

However, residential rental property, particularly multifamily housing, needs repair and replacement for almost every element every 10 to 12 years. These properties will be particularly affected by the Finance Committee proposals, since the unavailability of favorable depreciation allowances will result in deterioration of these properties. Residential rental units are vacated and occupied more frequently than nonresidential units, and consequently experience quicker deterioration. In addition, rental units are less well-maintained by tenants than are owner-occupied units or commercial property. They need repair often. Since rental property owners will find it more difficult to maintain and repair rental units under the Finance Committee proposals, our nation will face a major problem in the future with respect to deterioration of residential housing.

The conferees should revise the formula of depreciation for multifamily property. The formula must reflect the real economic decline of these properties brought on by age and other factors. This will encourage the rehabilitation of existing properties and keep rents down.

Mr. President, the Tax Reform Act of 1986 is historic and necessary. This country will benefit from its enactment. It is generally fair, and will lead this Nation to new heights of prosperity. However, Congress must be mindful of aspects of the bill which are unfair and impose a burden on those who can least afford it. Congress should not hinder those people who contribute their capital into the building of this great land. I urge my colleagues who are designated conferees to consider my remarks here today as they merge the best parts of both the Senate and House bills.

□ 1630

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DANFORTH. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 5 p.m., during which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 11:20 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 652. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 652. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 404: A resolution to designate the college of William and Mary as the official U.S. representative to the Tercentenary celebration of the Glorious Revolution.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Treaty Doc. 99-26. Protocol, signed at Beijing on May 10, 1986, concerning the in-

terpretation of paragraph 7 of the protocol to the agreement between the Government of the United States of America and the Government of the People's Republic of China for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income, signed at Beijing on April 30, 1984 (Exec. Rept. No. 99-15).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCONNELL:

S. 2553. A bill to amend the Consolidated Farm and Rural Development Act to require the Secretary of Agriculture to offer training in advanced marketing techniques and to require individuals to complete such training to be eligible for real estate and operating loans under such act; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER (For himself, Mr. HEINZ, Mr. CHAFEE, and Mr. PROXMIRE):

S. 2554. A bill to improve the quality of information available with respect to the prospective payments system under medicare program, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. DOLE, Mr. LUGAR, Mr. INOUYE, Mr. MOYNIHAN, Mr. PELL, Mr. HARKIN, and Mr. METZENBAUM):

S.J. Res. 361. A joint resolution opposing the participation of the Chilean vessel *Esmeralda* in the July 4 Liberty Weekend celebration; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. Res. 427. A resolution to recognize and acknowledge June 13, 1986 as "New Mexico is a State Day"; considered and agreed to.

By Mr. SYMMS (for himself, Mr. ZORINSKY, Mr. DENTON, Mr. DANFORTH, Mr. GRAMM, Mr. ABDNOR, Mr. SIMPSON, Mr. McCLURE, Mr. LAXALT, and Mr. HECHT.):

S. Con. Res. 148. A concurrent resolution expressing the sense of Congress concerning the nuclear disaster at Chernobyl in the Soviet Union; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCONNELL:

S. 2553. A bill to amend the Consolidated Farm and Rural Development Act to require the Secretary of Agriculture to offer training in advanced marketing techniques and to require individuals to complete such training to be eligible for real estate and operating loans under such act; to the Committee on Agriculture, Nutrition, and Forestry.

(The remarks of Mr. McCONNELL and the text of the legislation appear earlier in today's RECORD.)

By Mr. DURENBERGER (for himself, Mr. HEINZ, Mr. CHAFEE, and Mr. PROXMIRE):

S. 2554. A bill to improve the quality of information available with respect to the prospective payment system under the Medicare Program, and for other purposes; to the Committee on Finance.

MEDICARE INFORMATION ACT

● Mr. DURENBERGER. Mr. President, I rise today to introduce the Medicare Information Act of 1986. I am joined in this effort by Senators HEINZ, CHAFEE, and PROXMIRE as cosponsors. This bill mandates critically needed improvements in the Department of Health and Human Services' ability to monitor Medicare's prospective payment system. It will foster research which will enable Medicare to assess the quality of medical services provided to its beneficiaries. It requires the Department to undertake a second national medical expenditure survey, a necessity for future health policy-making.

THE NEED FOR PAYMENT REFORM

Mr. President, 20 years ago, Congress established Medicare in order to assure access to health care for this country's elderly and disabled.

But, in 1966, our definitions of access and quality were very different. At that time, the delivery of health care was often characterized by long stays in the hospital, and patients who were cared for, but not cured.

In the last 20 years, however, advances like intensive care units, and amazing new diagnostic tools, pacemakers, bypass surgery, cancer therapies, and same day cataract operations, have changed the definition of quality medical care for all Americans.

For the elderly and disabled in particular, the hospital is no longer simply a place to convalesce. Now, thanks to advances in medical science, the hospital can be a place to renew, and even improve, life.

With all these advances in modern medicine, however, have come new challenges. New, more expensive procedures and devices—when combined with Medicare's financing arrangements—resulted in greater access to effective care for beneficiaries, but also tremendous increases in cost for both beneficiaries and the American taxpayer.

Medicare's reimbursement system very naturally led doctors, hospitals, and their patients to think that more medicine was automatically better medicine.

Eventually, concern arose among many Americans that the more is better practice standard was not only too costly, but might also mean too much medicine, particularly in the case of hospital stays which can involve the risk of nosocomial infections and other complications.

These concerns led to a traditional regulatory response on the part of Government with certificate of need legislation and the genesis of the Professional Standards Review Organization [PSRO] Program, and, later, the peer review organizations [PRO's] which I helped to develop.

Action on the regulatory side, though, was only part of the answer. Payment reform had to be the major driving force to bring incentives for the providers in line with the actual needs of the beneficiaries. The advent of per case pricing for hospitals in 1983—payment by diagnosis related groups [DRG's]—replaced the traditional cost-based payment system and brought with it a "new day" in hospital care for Medicare and the 31 million Americans it serves.

Now, instead of more is better, the new Medicare payment system sends doctors and hospitals a signal that patient care should be managed carefully and that patients should receive only that care which they need.

These significant reforms are working largely as intended. Hospitals and other providers have responded well. The new system has given the Medicare hospital trust fund billions of dollars in savings and has given efficient hospitals the ability to make profit margins necessary to maintain financial viability.

PAYMENT REFORM BROUGHT NEW CONCERNS

While the signals of the new Medicare payment system have been clear to hospitals and doctors, they have been somewhat less clear to elderly and disabled Medicare beneficiaries. Many patients have been uncertain about whether they are receiving quality when they are directed away from traditional hospital settings for treatment or discharged after what seems like very short hospital stays. And, many older Americans are concerned that the new payment system leaves the potential for individual providers to short-sheet patients on quality.

In order to address these concerns about the impact of Medicare's prospective payment system on the quality of care provided to Medicare patients, the Senate Finance Committee held a hearing on June 3, 1986. The hearing focused on three critical questions:

First, whether the reported 3,000 to 4,000 early discharges, documented in the Medicare Program since the implementation of DRG's, are exceptions to the rule of generally good medical practice, or are the tip of a quicker and sicker iceberg?

Second, how much of the beneficiaries' concern over potential premature hospital discharges can be attributed to the fact that DRG's changed

overnight the way medicine is practiced in hospitals, but we all forgot to tell the beneficiaries?

Third, how much of the concern over premature hospital discharge is really a reflection of patients' inability to find the nonhospital settings or posthospital care they need?

Let me address these questions in reverse order.

Witnesses at the hearing agreed that some of the concern regarding the effect of DRG's on quality reflects the increasing need of Medicare patients for posthospital care.

In the old days of cost-based reimbursement, Medicare patients could expect to stay in the traditional hospital setting until they were completely recovered. This meant that many hospital stays included what one might call social days, or days during which the patient didn't require acute care, but couldn't arrange for, or afford, the less intense posthospital care actually needed. So, the patient stayed in the hospital through his total convalescence and the hospital sent the total bill—including the cost of the social days—to Medicare's hospital trust fund. Medicare paid for the cost of convalescent care when it paid for all the hospital days the doctor allowed.

However, under Medicare's new payment system, Medicare coverage for hospital stays ends when hospitalization is no longer medically necessary. So, a greater percentage of the Medicare patients being discharged from hospitals will still be in need of some level of subacute care. Yet Medicare's structure has not been changed to reflect the growing importance of posthospital care.

Witnesses at the hearing also agreed that some of the concern over the issue of premature discharge reflects, not medically inappropriate discharges, but a lack of understanding on the part of Medicare beneficiaries as to how Medicare's coverage of hospitalization has changed.

Medicare beneficiaries need information about PPS, and they need time, as do other Americans, to become accustomed to changes in the delivery of health care today.

Thousands of older Americans, for example, are having cataract and other types of surgery in same-day surgery centers. And thousands more receive cancer fighting chemotherapy treatments in outpatient departments and, increasingly, in their own homes. All Americans are having to get used to these kinds of changes in the practice of medicine. Mothers no longer spend five days in the hospital resting up after the birth of a baby. And dozens of tests and other procedures which used to require hospitalization are now done, routinely, in doctors' offices all over America.

But the most amazing area of agreement among our witnesses on the issue of whether or not we can assess the effect of PPS on quality of care.

I was particularly struck by the comprehensive work by the General Accounting Office and the Office of Technology Assessment. These two agencies did not conclude that there was a quality problem. But, they did not conclude that there was not a quality problem either.

Instead, they concluded that there is—amazingly enough—no data which to tell whether there is a quality problem under the new Medicare payment system.

I believe that the appropriate response to that conclusion is obvious—"Let's get the data!"

In a letter to Secretary Bowen, Senator HEINZ and I have already expressed concerns about specific problems with the administration and organization of Medicare data which inhibits its usefulness in evaluation of the effects of major policy changes on Medicare beneficiaries.

I am also disappointed to learn that HCFA has made no systematic effort to create a useable PRO research data base. Therefore, PRO's do not perform their reviews in a way which allows the data to be analyzed to identify regional variations in treatment patterns or to conduct national evaluations using objective measures of quality of care.

THE MEDICARE INFORMATION ACT OF 1986

Mr. President, to meet these information needs I am introducing today the Medicare Information Act of 1986. S. 2554 has three titles.

TITLE I

S. 2554 implements several options presented by the Office of Technology Assessment in its report on "Medicare's Prospective Payment System: Strategies for Evaluating Cost, Quality, and Medical Technology." This title will see to it that we have the information necessary to analyze the impact of PPS on access to and quality of care for beneficiaries as well as on the financial viability of hospitals. Specifically, title I:

First, requires that HCFA complete the Medicare automated data retrieval system [MADRS], its data base which links part A and part B files.

Without this kind of unified data base, it is impossible to follow beneficiaries beyond the hospital door and find out what's happening to them after discharge.

Yet this is where the real effect of PPS will be felt—not in medically premature discharges, but in the shift of more care to the posthospital setting. Medicare patients being discharged from the hospital will require a more intensive level of SNF or home health care, on the average, than they did before.

But, without a unified data base, HCFA can't confirm this prediction, nor can it know whether the posthospital needs of patients are being met.

Second, requires the HHS Secretary to report to Congress, within a year of enactment of the bill, recommendations for revising the hospital cost reports, now mandated by the Medicare statute, so that they provide information that is appropriate to the analysis of PPS in a timely fashion.

Under cost-based reimbursement, hospitals submitted cost reports whose content was dictated by the need for data which substantiated the hospitals' claims for payment from Medicare.

Under PPS, the need for cost data is changing, but it still exists. Medicare cost reports are critical for the job of evaluating the financial effects of PPS on different kinds of hospitals, patients, and payers. Without cost data, we won't be able to measure the distribution of profits and losses by DRG or by type of hospital, nor will we know the real cost problems faced by teaching versus nonteaching hospitals, by rural versus urban hospitals, by hospitals in different geographic regions with different input costs, and so on.

Currently, although the Social Security Amendments of 1983 prohibit the Secretary from eliminating the cost reports before 1988, their content can be changed at the discretion of HCFA, with OMB's approval, and HCFA routinely develops new cost reports.

Last year HCFA circulated for comments a revised cost report which it recommended for use only by PPS hospitals. The proposed reporting form eliminated so much essential information that it would have been impossible for PPS hospitals to calculate their inpatient costs. Without that data, it would be impossible for the Administration to monitor, evaluate, update, or rebase the PPS rates in order to set prices that are reasonably related to efficient costs of production. The proposed cost report was never implemented because it met with vehement objections from the field.

But the reporting format is in need of an overhaul by experts within and outside of the Federal Government to see that it provides information appropriate to the new payment mechanism. Therefore, the bill requires the Secretary to make recommendations on this overhaul after consulting with representatives of OTA, ProPAC, and other private sector experts and prohibits HCFA from making any major changes in the cost reports until 6 months after the Secretary's recommendations are received by Congress.

Third, designates the Office of the Assistant Secretary for Planning and Evaluation to coordinate and oversee the organization of PPS evaluations, which are currently fragmented within the department.

There are presently a great number of organizations conducting a variety

of studies on quality: HCFA itself, HCFA grantees and contractors, including PRO's and Rand, NCHSR, and more. One office should be designated to coordinate and oversee research and studies into quality so that appropriate studies are undertaken, costly efforts are not duplicated or wasted, available data are used efficiently, and the knowledge of those most qualified and objective is tapped.

ASPE is appropriate for this role in that it has traditionally maintained a coordinating role with respect to evaluation research, and because, as a separate office which is not involved in the administration of the Medicare Program, its involvement brings balance and added credibility to the functions of coordination and oversight.

Fourth, finally, title I of S. 2554 requires that all hospitals, by July 1, 1987, use HCFA's common procedure coding system, or HCPCS, to code the procedures that are performed in their outpatient departments on the bills they submit to Medicare's fiscal intermediaries.

Currently, hospital outpatient departments use the same ICD-9 procedural coding that is used on the inpatient side. But for purposes of comparing costs of services or procedures in different settings, it is important to be able to compare the outpatient department with an ambulatory service center or a doctor's office, not to compare it with hospital admissions.

By requiring this kind of comparability in coding across the appropriate settings, we can be confident that further reform of the Medicare payment structure will be based on adequate information with which to judge its impact before implementing it. For that reason, this provision was also included in S. 2368, the Medicare Physician Payment Reform Act of 1986, which I introduced along with Senators DOLE and BENTSEN.

TITLE II

S. 2554 requires that studies be conducted into medical practice variations, their implications for health outcomes, and that DHHS fund research to develop improved methods for measuring quality of care. Specifically, title II:

First, requires DHHS to organize a comprehensive data base including part A and part B claims data that would be suitable for small area analysis and outcomes research and to make it available for outcome research to qualified investigators and policy analysts.

Second, requires DHHS to support studies designed to assess the appropriateness of admissions and discharges.

Third, requires DHHS to assess the extent of professional uncertainty regarding the efficacy of selected medical treatments and surgical procedures.

Fourth, requires DHHS to develop improved methods for measuring patient outcomes.

Fifth, finally, title II requires DHHS to conduct evaluation of patient medical outcomes and quality of life outcomes for selected treatments and procedures.

Mr. President, this research is critically important. We want the Federal Government to be a prudent buyer of medical services for the beneficiaries of federally funded programs. Medicare in particular has come a long way since 1983 in moderating cost increases, and now we must combine our continuing efforts at cost control with a new initiative of monitoring quality in order to get beyond arguments over what is a good price or how long is the right length of stay to the more important question: Are the beneficiaries of Medicare and other Federal programs receiving value for the money paid for those services?

Mr. President, it has long been recognized that the use of medical treatments and surgical procedures varies substantially from area to area. This variation can occur for many reasons: Differences in the age or gender composition of the population, differences in patient preferences, differences in the incidence of diseases, and differences in standard of medical practice across communities.

Over the past 15 years, health services research on variations in medical practice, pioneered by Dr. Jack Wenneberg of Dartmouth University, has uncovered some very disturbing findings. First, after controlling and adjusting for differences in age and gender composition, disease rates, and the other factors identified above that one would expect to account for varied practice patterns in differing communities, researchers still observe enormous variations in the use of certain treatments and procedures.

In Maine, for example, the rate of hospitalization for pediatric pneumonia vary as much as twentyfold, not from one end of the State to the other, but in communities just a few miles apart. Further, in some parts of Maine, 70 percent of the elderly women have undergrone a hysterectomy, while in neighboring communities the rate is 25 percent.

In Iowa, the rates of prostatectomies in 85-year-old males varies from 15 percent in some communities to 50 percent in others.

These and many other findings from the research on medical practice variations have lent new insight into the way medicine is practiced. And they raise a fundamental question: Do these vastly different practice styles affect the quality of care which patients receive?

But this line of research hasn't yet been carried on to the next logical step—determining the health outcomes and quality of life associated with different patterns of medical and surgical treatment. Are patients who live in communities with a very high rate of prostatectomies or hysterectomies living longer, enjoying fuller lives with less pain, less disability, fewer complications, and fewer hospitalizations than patients living in communities with much lower rates of these procedures?

Right now, we don't know the answer to that question because the right studies haven't been done. S. 2554 will see that they are done.

Cobra requires that PRO's do 100 percent preadmission review of 10 procedures which have high volumes, costs, and nonconfirmation rates in their areas. By doing this, they will be able to address and reduce variation rates by "feeding back" to local physicians the criteria the PRO considers as indicating that a procedure is medically necessary. But in these decisions, each PRO will be reflecting its own training and its own local practice standard.

Armed with the knowledge that would be provided by these outcome studies under title II, PRO's could utilize uniform criteria based on state-of-the-art information rather than information based on each local PRO's particular training and historical practice pattern.

TITLE III

S. 2554 requires the DHHS Secretary to conduct a nationwide medical expenditure survey at least once a decade, beginning in fiscal year 1987.

The health care marketplace has undergone tremendous change in the last decade. As policymakers search for ways to improve efficiency and to encourage procompetitive reforms which reflect the fact that quantity is not synonymous with quality, we need accurate information about the costs that health care consumers are facing—costs for insurance, for supplemental insurance, for long-term care insurance, for care when they can't find insurance, and so on.

The last national medical expenditure survey was conducted in 1977—in other words, in an environment that was pre-DRG's, HMO's, PPO's, ASC's, and so on. Today, its usefulness is seriously limited and out of date, yet it continues to be the basis for most of the cost and savings estimates developed by the Congressional Budget Office and the Office of Management and Budget.

Plans for the survey have been endorsed by OMB and are contained in the President's budget justification. But the President's budget does not include sufficient funding to begin field work in fiscal year 1987.

Unless we see to it that adequate funding is available and that the survey is begun on time, we run the

risk of having to make major decisions on issues such as catastrophic coverage, long-term-care financing, and Medicare vouchers—without having reliable data with which to analyze specific proposals and to determine their likely effect on Medicare beneficiaries.

Therefore, it is essential that we begin the process of gathering this information. No new funds are provided for this survey—instead, it is mandated that the department fund the survey from its existing 1 percent setaside for evaluation projects.

By assuring that this survey is done in a timely manner, we can be certain that future policy proposals, such as Medicare and Medicaid vouchers, catastrophic health insurance, the development of more accurate Medicare payments to HMO's, and the design of reasonable deductibles and coinsurance will be based on current information, and not on 1977 pre-DRG-HMO-PPO-ASC and so forth statistics that are "trended forward."

Mr. President, I especially want to thank the senior Senator from Wisconsin [Mr. PROXMIRE], for his assistance and cooperation in developing this proposal. Senator PROXMIRE has been instruemntal in bringing to the Senate the need for beneficiary information regarding the operation of the DRG prospective payment system as well as the need for developing the type of sound health care data base envisioned by the bill we are introducing today. He has made a number of important contributions, which should not go unrecognized: He was the first Senator to introduce a proposal for a Medicare patient bill of rights, long before the Department developed their recent beneficiary fact sheet; he developed the first legislation to fund research into health care outcomes which serves as the base for our expanded proposal today; and, he has alerted all of us to the need for assuring that the national medical expenditure survey proceed on schedule. He has made substantive contributions to his effort and I deeply appreciate his efforts.

Mr. President, I believe that this bill implements several steps that must be taken immediately if we are to assure Medicare beneficiaries that the Federal Government is ready, willing, and able to monitor what is happening to the quality of medical care. I urge Members to join me in seeing it enacted this year.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE: TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Information Act".

(b) TABLE OF CONTENTS.—

TITLE I—INFORMATION FOR EVALUATION OF AND MAINTENANCE OF QUALITY UNDER THE PROSPECTIVE PAYMENT SYSTEM

SEC. 101. MEDICARE AUTOMATED DATA RETRIEVAL SYSTEM.

The Medicare Automated Data Retrieval System under development by the Secretary of Health and Human Services to provide integrated information on the claims of beneficiaries under parts A and B of title XVIII of the Social Security Act shall include information for all fiscal years beginning after September 30, 1979.

SEC. 102. REPORTING OF HOSPITAL COSTS.

(a) COST REPORTING REQUIRED THROUGH FISCAL YEAR 1993.—Section 1886(f)(1) of the Social Security Act (42 U.S.C. 1395ww(f)(1)) is amended by striking out "1988" and inserting in lieu thereof "1993".

(b) LIMITATION ON CHANGES.—During the period beginning with the date of the enactment of this Act and ending with the date on which the Secretary of Health and Human Services (in this section referred to as the "Secretary") submits the report required by subsection (c), the Secretary may modify the system for the reporting of hospital costs that is maintained pursuant to section 1886(f)(1) of the Social Security Act and is in effect on the date of the enactment of this Act only to the extent necessary to reflect changes in the method of payment for capital-related and other costs of subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) under title XVIII of such Act.

(c) REPORT.—

(1) Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report recommending ways in which the system for reporting hospital costs that is maintained pursuant to section 1886(f)(1) of the Social Security Act may be modified in order to provide information that is appropriate for the evaluation of the prospective payment system on a timely basis.

(2) The report required by paragraph (1) shall be prepared in consultation with the Prospective Payment Assessment Commission, the Office of Technology Assessment, and representatives of appropriate academic specialties and health-care organizations.

SEC. 103. COORDINATION AND OVERSIGHT OF PPS EVALUATION.

(a) IN GENERAL.—The Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services (in this section referred to as the "Assistant Secretary" and the "Department", respectively) shall be responsible for coordinating and overseeing the activities of the Department relating to the evaluation of the prospective payment system (in this section referred to as "PPS") established under section 1886 of the Social Security Act, including evaluations of the impact of PPS on the access of medicare beneficiaries to health care and on the quality of health care provided to such beneficiaries.

(b) DUTIES.—The duties of the Assistant Secretary under this section shall include—

(1) assessing the feasibility and costs of alternative studies of PPS in relation to their importance;

(2) developing an annual PPS evaluation agenda;

(3) recommending an annual PPS evaluation budget;

(4) identifying the most appropriate organizational sponsors for specific studies;

(5) recommending the most appropriate funding mechanisms;

(6) recommending funding levels for individual studies;

(7) overseeing and coordinating access to needed data;

(8) overseeing and coordinating changes in data systems to enhance the ability to evaluate PPS;

(9) reviewing the content of specific studies for their scientific validity; and

(10) maintaining a clearinghouse for both public and private sector studies.

(c) REPORT.—The Assistant Secretary shall report to the Congress not less than once each year with respect to the activities coordinated under this section.

SEC. 104. USE OF HCFA COMMON PROCEDURE CODING SYSTEM.

(9) HOSPITALS.—Not later than July 1, 1987, each carrier with which the Secretary has entered into a contract under section 1842 of the Social Security Act, and each fiscal intermediary which processes claims under part B of title XVIII of such Act, shall require hospital providers of outpatient services to adopt and utilize the HCFA Common Procedure Coding System for purposes of such part.

TITLE II—RESEARCH ON OUTCOMES OF SPECIFIC MEDICAL TREATMENTS AND SURGICAL PROCEDURES

SEC. 201. ESTABLISHMENT OF PATIENT OUTCOME ASSESSMENT PROJECT.

(a) IN GENERAL.—Section 1874 of the Social Security Act (42 U.S.C. 139511) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary, through the Assistant Secretary for Planning and Evaluation, shall establish a patient outcome assessment project (in this subsection referred to as the 'project') to promote research with respect to patient outcomes of selected medical treatments and surgical procedures for the purpose of assessing their appropriateness, necessity, and effectiveness. The project shall include—

"(A) reorganization of data relating to claims under parts A and B of this title in a manner that facilitates research with respect to patient outcomes,

"(B) assessments of the appropriateness of admissions and discharges,

"(C) assessments of the extent of professional uncertainty regarding efficacy,

"(D) development of improved methods for measuring quality-of-life patient outcomes,

"(E) model evaluations of patient outcomes, and

"(F) evaluation of the efforts on physicians' practice patterns of the dissemination to physicians and peer review organizations with contracts under part B of title XI of the findings of the research conducted under subparagraphs (B), (C), (D), and (E).

"(2) In selecting treatments and procedures to be studied, the Secretary shall give priority to those medical and surgical treatments and procedures—

"(A) for which data indicate a highly (or potentially highly) variable pattern of utilization among beneficiaries under this title in different geographic areas, and

"(B) which are significant (or potentially significant) for purposes of this title in terms of utilization by beneficiaries, length of hospitalization associated with the treatment procedure, costs to the program, and risk involved to the beneficiary.

"(3) For purposes of carrying out the project, there shall be available—

"(A) from the Federal Hospital Insurance Trust Fund $4,000,000 for each of fiscal years 1987, 1988, and 1989, and

"(B) from the Federal Supplementary Medical Insurance Trust Fund $3,500,000 for fiscal year 1989.

"(4) Not less than 90 percent of the amount appropriated for any fiscal year to carry out the project shall be used to fund grants to, and cooperative agreements with, non-Federal entities to conduct the activities described in paragraph (1). The remainder may be used by the Secretary to provide for such activities by Federal entities and for administrative costs.

"(5) The project shall be administered by the National Center for Health Services Research and Health Care Technology established under section 305 of the Public Health Service Act (in this subsection referred to as the 'Center'). The Center shall establish application procedures for grants and cooperative agreements, and shall establish peer review panels to review all such applications and all research findings. The Center shall consult with the council on health care technology (established under a grant under section 309 of the Public Health Service Act) in establishing the scope and priorities for the project and shall report periodically to such council on the status of the activities conducted under the project.

"(6) The Secretary shall make available data derived from the programs under this title and other programs administered by the Secretary for use in the project.

"(7) The Center shall report to the Congress not later than 18 months after the date of the enactment of this Act, and annually thereafter, with respect to the findings under the project. In cooperation with appropriate medical specialty groups, the Center shall disseminate such findings as widely as possible, including disseminating such findings to each peer review organization which has a contract under part B of title XI.".

(b) PERMITTING SERVICES TO BE PROVIDED UNDER RESEARCH PROGRAM.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C),

(2) by striking the semicolon at the end of subparagraph (D) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(E) in the case of research conducted pursuant to section 1875(c), which is not reasonable and necessary to carry out the purposes of the section;".

TITLE III—NATIONAL MEDICAL EXPENDITURE SURVEY.

SEC. 301. NATIONAL MEDICAL EXPENDITURE SURVEY.

Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"NATIONAL MEDICAL EXPENDITURE SURVEY

"SEC. 1138. (a) Commencing in fiscal year 1987, and commencing every tenth fiscal year thereafter, the Secretary, through the National Center for Health Services Research and Health Care Technology Assessment, shall conduct a survey to evaluate the impact, during the ten-fiscal-year period immediately preceding the fiscal year in which the survey is commenced, of expenditures for health care under programs carried out by the Health Care Financing Administration and other entities of the Department of Health and Human Services on the costs, financing, and utilization of health care services in the United States. The survey shall include information on such impact for all groups within the United States population, including individuals receiving long-term care services.

"(b)(1) To carry out this section, there shall be made available—

"(A) for fiscal year 1987, $16,000,000,

"(B) for fiscal year 1988, $12,000,000, and

"(C) for fiscal year 1989, $6,000,000,

from amounts available for such fiscal year under section 2113 of the Public Health Service Act.

"(2) The provisions of paragraph (1) shall not be construed as reducing or affecting any amount required, under any other provision of the Public Health Service Act, to be made available for any fiscal year from amounts available for such fiscal year under section 2113 of such Act.".●

● Mr. HEINZ. Mr. President, I am pleased to join Senator DURENBERGER today in introducing the Medicare Information Act of 1986. This bill is designed to improve the scope of information available to policy makers on the medical and economic factors affecting Medicare.

On April 17, I, along with Senator DURENBERGER and a number of other Senators, introduced S. 2331, the Medicare Quality Protection Act. This bill responds to the many problems with quality of care that are developing under PPS by refining the DRG's, improving patients' rights and information about PPS, improving quality assurance in hospital and post-hospital settings, and ensuring greater access to post-hospital care. The Medicare Information Act complements S. 2331 by addressing three major gaps in our knowledge about health care delivery to Medicare's 31 million beneficiaries:

First, the effects of the prospective payment system [DRUG's] on quality and access to care; second, the variations in medical practice and their implications for health outcomes, such as mortality, morbidity and quality of life; and third, expenditures on health care by beneficiaries and their effects on such outcomes as access to care, utilization of services and health care status. The Medicare Information Act requires that the Department of Health and Human Services [DHHS] make specific improvements in the collection, analysis and timely dissemination of data on these issues and that certain studies be conducted to plug the major holes in our knowledge of what is happening under the Medicare Program. These bills together should provide a firmer foundation upon which we can base reforms of the Medicare Program.

WHY IS THE MEDICARE INFORMATION ACT NECESSARY?

On June 3, 1986, the Senate Finance Committee held a hearing on quality of care under Medicare's prospective payment system. The committee heard from a most distinguished set of health care researchers as well as from experts from the General Accounting Office, the Prospective Payment Assessment Commission and the Office of Technology Assessment. The witnesses were unanimous in concluding that we have almost no systematic information on the effects of prospective payment on quality of care or on beneficiaries' access to care. Even information on the effects of PPS on Medicare financing and expenditures—inherently easier to measure than quality and access—is woefully inadequate.

For a program affecting 31 million beneficiaries and costing more than $75 billion in 1986, we in the Congress and the administration are operating under a veil of ignorance about the most important effects on those whom Medicare serves: the quality of the care it delivers; the availability of that care; and the appropriateness of where that care is delivered.

This finding followed on the heels of the Senate Aging Committee's 16-month investigation into quality of care under Medicare's PPS. From this investigation, we learned that DRG's are driving patients out of hospitals quicker and sicker than under the prior system of reimbursement. In addition, we learned that post hospital services feel the strain of patients needing greater levels of care. Nonetheless, when it comes to quantifying access, cost and quality, we learned that we are lacking the necessary numbers and analysis. This lack of information was systematically documented by both the Office of Technology Assessment and the General Accounting Office in reports prepared at my request as chairman of the Senate Special Committee on Aging.

The most troubling aspect of the OTA and GAO findings is that throughout the Senate Aging Committee's investigation, HCFA was telling Medicare beneficiaries and the Congress that everything was fine, that Medicare's new payment system was having no adverse effects on quality and access to care. As both GAO and

OTA have established however, HCFA does not have the information to conclude anything about the effects of PPS. For the most basic of questions that we are asking about the quality of care available to Medicare's 31 million beneficiaries, we have no definitive answers: we do not know, for example, whether the several thousand cases of premature discharge identified by Inspector General Kusserow represent "the tip of the iceberg, or an ice cube floating on the surface of the Ocean;" we do not know whether Medicare patients who have multiple ailments and are thus likely to be "DRG losers" for hospitals are being admitted or turned away from hospital doors; we do not know whether the quality of services within the hospital has improved or deteriorated under PPS. In short, we are operating without the information necessary to assess what is happening.

Faced with mounting evidence of deteriorating quality of care under Medicare, we cannot be sure whether these problems are attributable to PPS or other changes in the Medicare Program and our health care system as a whole. Without that information, we have no way of determining what would happen under a variety of possible Medicare changes, such as placing outpatient services under DRG's, or going to prospective payment for skilled nursing and home health care. As policymakers, we are seriously hampered in our ability to make changes that will produce predictable outcomes. We are operating in the dark, at peril of pulling the wrong strings.

The June 3 Finance Committee hearing also underscored the need for intensified Federal research efforts on the effects of medical practice variations on health care outcomes, including morbidity, mortality, and the quality of life. Medicine is a very subjective profession, which cannot be reduced to cookbook certainty. Research has documented that medical services provided for a given health status vary very widely from place to place. For example, the probability that a woman will undergo a hysterectomy before she reaches age 75 varies from less than 15 percent to well over 60 percent depending solely on what part of the country she lives in. Similarly, the chances that a man will have a prostatectomy by age 75 vary from a low of about 15 percent to well over 50 percent in different hospital market areas. What we do not know is how such practice variations affect health care outcomes. Nor do we have a very good handle on how to measure such outcomes as quality of life.

These limitations in our ability to determine what is good medical care are also addressed by the Medicare Information Act. Under this bill, the Secretary of HHS will be required to establish a comprehensive program to provide for an assessment of the appropriateness—based on both medical and social criteria—of hospital admissions and discharges for selected medical conditions experienced by Medicare patients. The Secretary will be required to give priority to those medical and surgical treatments and procedures for which existing data indicate a highly variable pattern of utilization by beneficiaries and which are significant to the Medicare Program in terms of utilization, length of hospitalization, costs to the program and related factors.

Finally, the Medicare Information Act requires that HHS conduct a nationwide medical expenditure survey at least once a decade, beginning in fiscal year 1987. The last such survey was completed in 1977, and the data have had to be trended forward to provide necessary information for basic policy decisions about Medicare and other Federal health care programs. Our legislation will provide for a much more solid statistical data base for the study of Federal health policy and the development of new reforms.

This is a technical yet very necessary initiative, Mr. President. I urge my colleagues to join us in cosponsoring this legislation.●

● Mr. PROXMIRE. Mr. President, the legislation which we are introducing today—the Medicare Information Act—is an important step forward in assuring that Congress has the necessary information on which to base health policy decisions for the decade ahead.

The Medicare Information Act will help in three important ways.

First, this legislation will set in place information systems that will enable us to evaluate not only the cost, but the quality of care, implications of the DRG prospective payment system.

Second, this bill will authorize research into the health care outcomes of medical procedures commonly used by Medicare beneficiaries, thereby providing new and important information regarding the bottom line of medical care: how well it works. This title of the bill builds upon legislation I introduced several months ago—S. 2114—and will require the Department of Health and Human Services to establish an ongoing look at those factors affecting quality of patient care.

And, finally, title III of the bill recognizes the need for updating our national data base on the cost of health care and the impact of Federal health policy. That data base has not been updated since 1977 despite the tremedous changes that have taken place in the delivery and financing of health care in both the public and private sectors of our economy. This title fully incorporates my bill—S. 2167—which assures that the new nationwide survey, known as the National Medical Expenditure Survey, will proceed in fiscal year 1987 as originally scheduled.

REFOCUSING MEDICARE'S PRIORITIES

Mr. President, in the last decade the health care delivery system in this country has turned upside down.

There has been a dramatic change in the private sector. Beginning with the trend toward self-insurance by major employers in the late seventies, the key development has been the emergence of price competition in a field where discussions of cost were once considered undignified. A whole new array of organizational structures have come into being, such as preferred provider organizations [PPO's], older structures have taken off, such as the whopping 20-percent-plus growth in HMO enrollment for the last few years, and the site of delivery of health care has strikingly shifted from the hospital to ambulatory surgical centers, to walk-in medical centers in shopping malls and even to the home.

Medicare has mirrored these developments and trends. In the eighties Medicare has pursued two major policies.

The first has been the move away from cost-based reimbursement for inpatient hospital care and the establishment of a prospective payment system, setting a price list in advance, for payment of patient care, based upon the diagnosis of the patient.

The second, which is still in its first year of implementation, is the certification of health maintenance organizations [HMO's] for enrollment of Medicare beneficiaries.

Both of these initiatives, while conceptually different, share certain common features. They both:

Set the amount of payment in advance of the provision of service, thereby, sharing the financial risk of high-cost treatments with the health care provider.

Cluster services for the payment of treatment, lessening the cost inflation of the old system where every aspirin could be billed separately.

Encourage managerial and clinical efficiency in the use of expensive, and often scarce, medical resources.

This has been a welcome change in incentives and the hospital industry, in particular, has responded to the challenges of the prospective payment system with uncharacteristic vigor.

But the dimensions of the response to the DRG payment system have been a mixed blessing. Our intention was to wring the fat out of the system and provide incentives for efficiency. That seems to be working well.

Yet there are continuing and disturbing reports of Medicare beneficiaries being discharged prematurely. Other beneficiaries find that, even when discharged appropriately, Medi-

care's posthospital benefit structure—home health care and skilled nursing facility care—has not been redesigned to meet the new continuity of care needs they face.

And against the background of these complaints is the certain knowledge that incentives for efficiency can all too quickly become incentives for underservice and that the drive for cost containment can all too rapidly erode both quality of care and access for the sickest of Medicare beneficiaries and those with chronic, and expensive, continuing care needs.

This is particularly alarming for the Medicare population, whose members are often fragile and extremely vulnerable in their later years. They cannot simply be left to fend for themselves as some would have them do. The Federal Government has an obligation to them not only to pay for the Medicare benefit package but to actively assist them in securing access to care and assuring the quality of that care.

And the need to refocus Medicare's priorities—to quality of care and access—as well as cost containment is the motivating force behind this bill.

WHAT NEEDS TO BE DONE?

Mr. President, part of the over-reaction to the DRG system by the health care system has been based upon a misunderstanding, by beneficiaries and hospital personnel alike, of the nature of the system. That is why I introduced legislation, on Medicare's 20th anniversary last year, to establish a Medicare patient bill of rights, which has subsequently been adopted by Medicare and distributed to our Nation's hospitals. This type of consumer information is crucial and the Department needs to be more active in educating beneficiaries regarding the DRG system. But consumer information is not the entire answer and the Medicare Information Act proposes three important steps.

First, the Congress needs to follow the recommendations of the Office of Technology Assessment and the General Accounting Office, embodied in title I of our bill, to establish the data systems that will enable us to evaluate any perceived changes in quality of care. For example, to what extent are changes in quality of care reflective of inadequate inpatient care or the failure of the posthospital care system—once the patient is out the door—to meet their continuing needs?

We also need to continue to require hospital cost reports for the near future not only to determine whether hospitals are profiting under the DRG system but also to provide us with an ability to document those classes of hospitals—for example, teaching institutions, small hospitals or rural hospitals, disproportionate share hospitals—which might be unduly disadvantaged under the current DRG payment configuration and pinpoint future modifications in DRG payments.

While we do not want to protect hospitals from the possibility of losses, it is clear that the payment structure must be reasonable if we are to keep the incentives of the system in balance.

Second, as I pointed out in my statement of February 27, 1986, introducing S. 2114, Dr. Jack Wennberg of Dartmouth University has documented tremendous variations, across the country, and between individual communities just a few miles apart, in the rates at which certain medical procedures are performed.

While part of that variation may reflect differences in age, sex, severity of illness, patient or physician preferences, the differences are so significant that they are highly disturbing. They represent very different commitments of expensive, and often scarce, medical resources, yet we have little information on whether there is any real difference for the patient, which is the bottom line. Are health outcomes better in areas with higher rates of hysterectomies or prostatectomies? Do patients live longer, have fewer complications, fewer days of disability, a higher quality of life? The answer is that we simply do not know. And we need to find out both to assure quality of care for Medicare beneficiaries and to assure the integrity of the Medicare trust fund.

Title II of our bill builds upon my legislation, S. 2114, and directs the Department to establish a patient outcome assessment project at the level of the Assistant Secretary for Planning and Evaluation as well as directing the National Center for Health Services Research to fund individual projects in this area.

Third, the Medicare Information Act incorporates, in its entirety, my bill—S. 2167—which I introduced on March 10 of this year. Contained in title III of the bill we are introducing today, these provisions require the Department to conduct, at least once a decade, beginning in fiscal year 1987, a nationwide survey of health care costs and expenditures.

This data provides the basis for all cost estimates of the Congressional Budget Office and the Office of Management and Budget. Currently, they are relying upon data from the last survey, conducted in 1977, which they attempt to trend forward to reflect health care costs today.

But in attempting to model the costs of a catastrophic care program, which are very dependent upon the number of individuals currently ensured against catastrophic costs or the degree of their coverage, it is difficult to use decade-old data trended forward.

There are a host of issues for which this survey will be invaluable and I urge those interested in the survey's potential importance to health policy decisionmaking to review my introductory statement accompanying S. 2167 on March 10. As part of that statement I included the research plan for the National Medical Expenditure Survey which pinpoints its policy applications.

CONCLUSION

Mr. President, taken together, these three initiatives will enable us to address the important questions of quality of care and access raised by the DRG prospective payment system, better assess the effectiveness of alternative medical procedures that are used by Medicare beneficiaries and improve our ability to predict the costs, the savings and the cost-shifting implications of Federal cost containment policies of the nineties.●

ADDITIONAL COSPONSORS

S. 519

At the request of Mr. EVANS, the name of the Senator from Missouri [Mr. EAGLETON] was added as a cosponsor of S. 519, a bill to require a study of the compensation and related systems in executive agencies, and for other purposes.

S. 1917

At the request of Mr. BRADLEY, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

S. 2050

At the request of Mr. METZENBAUM, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 2050, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

S. 2103

At the request of Mr. MCCLURE, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2103, a bill to clarify the application of the Clayton Act with respect to rates, charges, or premiums filed with State insurance departments or agencies.

S. 2282

At the request of Mrs. HAWKINS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 2282, a bill to establish a national advanced technician training program utilizing the Nation's eligible colleges to expand and improve the supply of technicians required by industry and national security in strategic, advanced, and emerging technology in order to increase the productivi-

ty of the Nation's industries, to contribute to the self-sufficiency of the United States in emerging technology, and to improve the competitiveness of the United States in international trade, and for other purposes.

S. 2533

At the request of Mr. DIXON, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2533, a bill to amend the Food Stamp Act of 1977 and the Temporary Emergency Food Assistance Act of 1983 to alleviate hunger among the homeless by improving certain nutrition programs and for other purposes.

SENATE JOINT RESOLUTION 314

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Joint Resolution 314, a joint resolution to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week."

SENATE JOINT RESOLUTION 355

At the request of Mr. LONG, the names of the Senator from Kansas [Mr. DOLE], the Senator from Rhode Island [Mr. PELL], the Senator from Idaho [Mr. MCCLURE], the Senator from Michigan [Mr. RIEGLE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from South Dakota [Mr. ABDNOR], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Texas [Mr. BENTSEN], the Senator from Oklahoma [Mr. NICKLES], the Senator from Mississippi [Mr. STENNIS], the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from Alaska [Mr. STEVENS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Massachusetts [Mr. KERRY], the Senator from Nebraska [Mr. ZORINSKY], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 355, a joint resolution to designate August 1986 as "Cajun Music Month."

SENATE JOINT RESOLUTION 356

At the request of Mr. MATHIAS, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Virginia [Mr. WARNER], the Senator from Tennessee [Mr. GORE], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 356, a joint resolution to recognize and support the efforts of the U.S. Committee for the Battle of Normandy Museum to encourage American awareness and participation in development of a memorial to the Battle of Normandy.

SENATE CONCURRENT RESOLUTION 24

At the request of Mr. MATTINGLY, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Concurrent Resolution 24, a concurrent resolution to direct the Commissioner of Social Security and the Secretary of Health and Human Services to develop a plan outlining the steps which might be taken to correct the social security benefit disparity known as the notch problem .

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of Senate Resolution 424, a resolution commending Col. Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

AMENDMENT NO. 2077

At the request of Mr. KASTEN, the name of the Senator from Alabama [Mr. DENTON] was added as a cosponsor of Amendment No. 2077 proposed to H.R. 3838, a bill to reform the internal revenue laws of the United States.

SENATE CONCURRENT RESOLUTION 148—SENSE OF THE CONGRESS CONCERNING THE NUCLEAR DISASTER AT CHERNOBYL

Mr. SYMMS (for himself, Mr. ZORINSKY, Mr. DENTON, Mr. DANFORTH, Mr. GRAMM, Mr. ABDNOR, Mr. SIMPSON, Mr. MCCLURE, Mr. LAXALT, and Mr. HECHT) submitted the following concurrent resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. CON. RES. 148

Whereas the nuclear plant explosion at Chernobyl in the Soviet Union may have resulted in radiation contamination of food and livestock in many areas of the Soviet Union and Europe;

Whereas the United States in the past has provided assistance to countries that have experienced natural or manmade disasters;

Whereas the people of the affected countries who have suffered the loss of livestock and crops as the result of the disaster at Chernobyl require a safe and adequate food supply in order to live and maintain human dignity;

Whereas the United States has at its disposal the means to provide food assistance to those people; and

Whereas the Secretary of Agriculture is vested with a number of authorities to promote and assist the commercial sale of live dairy cows and dairy beef products to foreign countries: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) dairy cattle designated to be slaughtered under the so-called Whole Herd Dairy Buyout program of the Department of Agriculture, instead of being slaughtered, should be supplied to the people of the affected countries to replace stocks of dairy cattle contaminated as the result of the disaster at Chernobyl through commercial sales and under such programs as are available to the Secretary of Agriculture;

(2) any Commodity Credit Corporation feed grain stocks required to feed dairy cattle supplied to the affected countries should be made available to such countries through commercial sales and under such programs as are available to the Secretary of Agriculture; and

(3) any beef generated from the slaughter of cattle under the so-called Whole Herd Dairy Buyout program should be made available to such countries through commercial sales and under such programs as are available to the Secretary of Agriculture.

● Mr. SYMMS. Mr. President, I send to the desk a concurrent resolution encouraging the Secretary of Agriculture to use beef and live dairy cows made available from the Dairy Buyout Program to meet the demand for such commodities caused by the Chernobyl nuclear disaster in the Soviet Union.

America's beef industry is in dire straits. Floods of cheap imported meat, expensive farm credit, poor land management policies (on government grazing lands) and already low prices have over the last few years left cattlemen grasping for survival. the Whole-Herd Dairy Buyout Program recently enacted by this Congress is the final blow, threatening to cripple America's domestic beef industry for years to come. Millions of pounds of red meat have been dumped on the market by the slaughter of dairy cows under this program.

The least Congress and this Nation owes cattlemen is to find a market for this surplus. This resolution recognizes the demand for beef and dairy products that was created by the Chernobyl disaster, and that the Secretary of Agriculture has authority to direct some of America's surplus in these commodities toward meeting that demand.

I'd like to thank the Senate leadership, on the majority and minority sides, and the good leadership of the Senate Agriculture Committee for their assistance in developing the legislation.●

● Mr. HELMS. Mr. President, this concurrent resolution aims at solving two problems in one stroke. On one hand, it seeks to provide assistance to persons whose food supply has been affected by the Chernobyl nulcear accident. On the other, it aims to reduce the burden placed upon cattle markets by the Dairy Termination Program.

I am all in favor of the approach embodied in this resolution. However, I do have some concerns.

Under current USDA export sales promotion programs, there is no use of direct subsidies for the Soviet Union. This is wise policy, for I do not believe the American people would stand for the use of their tax dollars to subsidize the Kremlin and its operations.

In addition, I can understand why we might want to provide food to those affected within the Soviet Union by the Chernobyl accident. However, there is no guarantee that if we were to provide food to the Soviet Government, it would be used to assist those affected by the accident. Rather, it is probably just as likely that the food

will be used to feed the Soviet occupation troops in Afghanistan.

In light of these concerns, I would hope that this concurrent resolution would not be construed as supporting the use of export subsidies for the Soviet Union.

What are the intentions of the Senator from Idaho, Senator SYMMS, in this regard?

Mr. SYMMS. Mr. President, for the RECORD, I would like to make clear that this concurrent resolution does not address the issue of export subsidies for the Soviet Union, nor seek to change the current policy of making such subsidies available to the Soviets.

Mr. HELMS. I thank the Senator for his clarification of the intent behind this concurrent resolution.●

SENATE RESOLUTION 427—RECOGNIZING JUNE 13, 1986, AS NEW MEXICO IS A STATE DAY

Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 427

Whereas New Mexico was admitted to the Union on January 6, 1912;

Whereas New Mexico is the site of the most diverse and extensive remains of ancient American cultures;

Whereas New Mexico is the home of the oldest European settlements in the Union;

Whereas three unique and independent cultures thrive together within the borders of New Mexico, exemplifying the essence of our Union;

Whereas New Mexico has the largest proportion of Native Americans of any state in the Union;

Whereas New Mexico is the home of many natural wonders, closely identified with our Union's heritage, such as the Carlsbad Caverns, White Sands of Alamogordo and the lava flows of El Malpais;

Whereas New Mexico is the home of numerous man-made wonders closely identified with the Union, such as the ancient ruins of Chaco Canyon, Bandelier National Park, Gila cliff dwellings, the Pueblos of the Rio Grande Valley, and the Santa Fe Trail;

Whereas New Mexico is the home of such uniquely American events as the Hot Air Balloon Fiesta and the landing of the Space Shuttle Columbia;

Whereas New Mexico has contributed such diverse American personalities to our Union's heritage as Kit Carson, Billy the Kid, Smokey the Bear, the first men to cross the Atlantic Ocean in a balloon—Ben Abruzzo, Maxie Anderson, and Larry Newman, the world renowned artist Georgia O'Keefe, former astronaut Harrison "Jack" Schmitt, and hotel magnate Conrad Hilton;

Whereas New Mexico has made extraordinary contributions to the defense of the Union in the past, including the diligent work of our citizens to the Manhattan Project, the unrivaled talents of the Navajo code-talkers in World War II, and the brave lives lost at the Bataan Death March in World War II;

Whereas New Mexico stands in the forefront of our nation's defense today through the efforts of its citizens at Los Alamos National Laboratories, White Sands Missile Range, Sandia National Laboratories, Holloman Air Force Base, Cannon Air Force Base, and Kirtland Air Force Base: Now, therefore, be it

Resolved by the Senate of the United States of America in Congress assembled, that June 13, 1986 is recognized and acknowledged as "New Mexico is a State Day," and;

Resolved further, that the Secretary of the Treasury and the Secretary of State each be sent a copy of this resolution.

AMENDMENTS SUBMITTED

TAX REFORM ACT OF 1986

HAWKINS (AND DECONCINI AMENDMENT NO. 2078)

(Ordered to lie on the table.)

Mrs. HAWKINS (for herself and Mr. DECONCINI) submitted an amendment intended to be proposed by them to the bill (H.R. 3838) to reform the internal revenue laws of the United States; as follows:

On page 1744, between lines 5 and 6, insert the following new section:

SEC. . SENSE OF THE SENATE RELATING TO RESIDENTIAL SOLAR ENERGY TAX INCENTIVES.

(a) FINDINGS.—The Senate finds that—

(1) the development of a domestic solar energy industry is an important factor in the nation's future energy security,

(2) the United States must maintain its preeminent position in the commercial development and sales of solar thermal and electric technologies,

(3) more than 25,000 people nationwide have lost their jobs and over 80 percent of the solar manufacturers have closed down due to the precipitous expiration of the solar energy residential and commercial tax credits,

(4) over 80 percent of solar sales have been in the residential sector which has immediate impact on the personal energy security of the American public,

(5) all of the conventional forms of energy receive and have retained tax incentives in the tax deliberations in the House and Senate,

(6) the United States solar industry is one of the first industries to embrace tax reform and to ask for an orderly phaseout of tax incentives, and

(7) the United States must not permit the continued collapse of the solar industry due to tax inequities.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate conferees, if appropriate, support an orderly three-year phaseout of the residential solar energy tax incentives.

METZENBAUM AMENDMENT NO. 2079

Mr. METZENBAUM proposed an amendment to the bill H.R. 3838, supra; as follows:

On page 1808, strike out line 15, and insert in lieu thereof "subparagraph (C) or (D):"

On page 1808, beginning with line 16, strike out all through page 1810, line 13, and redesignate accordingly.

Insert at the appropriate place:

The Secretary of Treasury is authorized to issue regulations that permit family farmers to use income averaging to the extent that such regulations will not reduce revenues more than the revenue raised under this amendment as determined by the Joint Committee on Taxation.

WILSON (AND OTHERS) AMENDMENT NO. 2080

(Ordered to lie on the table.)

Mr. WILSON (for himself, Mrs. HAWKINS and Mr. MATHIAS) submitted an amendment intended to be proposed by Mr. WILSON to the bill H.R. 3838, supra; as follows:

At the appropriate place in the amendment, add the following new title and amend the Table of Contents appropriately:

"TITLE —UNITARY TAX REPEALER

"SEC. 01. This title may be cited as the 'Unitary Tax Repealer Act of 1986'.

"SEC. 02. Chapter 77 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7518. STATE TAXATION OF FOREIGN INCOME.

"(a) STATE USE OF WORLDWIDE UNITARY METHOD PROHIBITED.—No State shall impose income tax on any taxpayer on a worldwide unitary basis, unless:

"(1) the taxpayer materially fails to comply with the requirements of section 6039A or with the legal or procedural requirements of the income tax laws of such State; or

"(2) neither the taxpayer nor the government of the relevant foreign country provides to such State, within a reasonable period after proper request, material information relating to the determination of the income of the taxpayer on transactions between the taxpayer (or any related corporation described in section (c)(2)) and any corporation not described in section (c)(2) which is a member of the same controlled group of corporations as the taxpayer.

Notwithstanding the foregoing, this subsection shall not preclude any State from permitting a taxpayer to be taxed on a worldwide unitary basis pursuant to an unconditional election by such taxpayer.

"(b) STATE TAXATION OF FOREIGN-SOURCE DIVIDENDS.—No State shall require the inclusion in the income base upon which State income tax of a corporation is calculated of more than an equitable portion of any dividend received from another corporation, other than a corporation described in section (c)(2) (A) through (E). For purposes of this subsection (b), a State shall not be considered to include in the income base more than an equitable portion of dividends described in the preceding sentence if it—

"(1) excludes from the income base at least 85 percent of such dividends;

"(2) excludes from the income base the portion of the dividend that effectively bears no Federal income tax after application of the foreign tax credit; or

"(3) adopts a method of taxation that, considering all the facts and circumstances, results in an equitable apportionment of the dividend to the State substantially similar to (1) or (2), pursuant to regulations to be promulgated by the Secretary.

This subsection shall not apply to any tax imposed on a dividend by the State of commercial or legal domicile of the recipient. This subsection shall not be construed to permit State taxation of any dividend not

subject to State taxation prior to enactment of this section.

"(c) DEFINITIONS.—

"(1) INCOME TAX.—For purposes of this section, the term 'income tax' shall include any State franchise or other tax which is imposed upon or measured by the income of the taxpayer.

"(2) WORLDWIDE UNITARY BASIS.—For purposes of this section, the term 'worldwide unitary basis' means that in computing its State income tax liability a corporation includes in the income base on which the tax is calculated any share of the income of any corporation other than a corporation that is a member of the same controlled group of corporations and is:

"(A) a domestic corporation (including a corporation that has made an effective election under section 936);

"(B) a corporation described in section 922;

"(C) a corporation organized in the Commonwealth of Puerto Rico, Guam, American Samoa, or the United States Virgin Islands;

"(D) any foreign corporation if (i) such corporation is subject to State income tax in at least one State by virtue of its business activities in that State, and (ii)(A) such corporation has, assignable to 1 or more locations in the United States, at least $10,000,000 in compensation payments made by it for services rendered during its most recent Federal taxable year, sales or purchases of at least $10,000,000 to or from unrelated parties during its most recent Federal taxable year, or property (other than stock or securities of a corporation) with an aggregate original cost of at least $10,000,000, or (B) the average of the percentages of such corporation's property (based on its aggregate original cost), compensation payments made for personal services (determined for its most recent Federal taxable year), and sales (determined for its most recent Federal taxable year) that are assignable to 1 or more locations in the United States is at least 20 percent; or

"(E) any foreign corporation described in subsection (c)(3).

"(3) CERTAIN FOREIGN CORPORATIONS.—A foreign corporation is described in this subparagraph if such corporation—

"(A) is a member of a controlled group of corporations that includes at least one reporting corporation (within the meaning of section 6039A but determined without reference to this paragraph);

"(B) either carries on no substantial economic activity or makes at least

"(i) 50 percent of its sales,

"(ii) 50 percent of its payments for expenses other than payments for intangible property, or

"(iii) 80 percent of all of its payments for expenses,

to one or more corporations that are described in subparagraph (A) through (D) of paragraph (2) and that are within the controlled group of corporations referred to in subparagraph (A) of this paragraph; and

"(C) under standards established in regulations to be prescribed by the Secretary, is not subject to substantial foreign tax on its net income.

"(4) CERTAIN DOMESTIC CORPORATIONS TREATED AS FOREIGN CORPORATIONS.—For purposes of paragraphs (2) and (3), a domestic corporation shall be treated as a foreign corporation if (i) such corporation has, assignable to 1 or more locations in the United States, less than $10,000,000 in compensation payments made by it for services rendered during its most recent Federal taxable year, sales or purchases of less than $10,000,000 to or from unrelated parties during its most recent Federal taxable year, and property (other than stock or securities of a corporation) with an aggregate original cost of less than $10,000,000, and (ii) the average of the percentages of such corporation's property (based on its aggregate original cost), compensation payments for personal services (determined for its most recent Federal taxable year), and sales (determined for its most recent Federal taxable year) that are assignable to one or more locations in the United States is less than 20 percent.

"(5) CONTROLLED GROUP.—For purposes of this section, the term 'controlled group' has the same meaning as in section 6039A(c)(4).

"(6) CERTAIN BANK BRANCHES.—For purposes of this section, a domestic branch of a foreign corporation shall be treated as a separate corporation that is incorporated in the United States if such branch is engaged in the commercial banking business. For purposes of the preceding sentence, a branch is engaged in the commercial banking business if (i) the predominant part of its business consists of receiving deposits or making loans and discounts, and (ii) it is subject to supervision and examination by State or Federal authorities having supervision over banking institutions. The Secretary may issue regulations providing that for purposes of this section domestic branches of foreign corporations in other specified industries shall be treated as separate corporations incorporated in the United States.".

"SEC. 03. Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to information returns) is amended by adding immediately after section 6039 the following section:

"SEC. 6039A. INFORMATION WITH RESPECT TO CERTAIN MULTISTATE AND MULTINATIONAL CORPORATIONS.

"(a) GENERAL RULE.—A reporting corporation shall file, within 180 days of the due date (including extensions thereof) of its Federal income tax return for the taxable year, a return disclosing information relating to its State income tax returns for State taxable years ending with or within the taxable year of such corporation for Federal income tax purposes. Such return shall include the reporting corporation's income tax liability to each State in which it is liable to pay income tax, its income subject to tax in each State, the method of calculation by which the reporting corporation computed and allocated its income subject to tax by each State, each corporation in which the reporting corporation, or any corporation owning 50 percent or more of the outstanding voting stock of the reporting corporation, owns, directly or indirectly, at any time during the reporting corporation's taxable year, more than 20 percent of the combined voting power of all classes of stock entitled to vote and which, during the reporting corporation's taxable year, has engaged in transactions with the reporting corporation and its includible corporations aggregating $1,000,000 or more, and such other related information as the Secretary may by regulation prescribe.

"(b) REPORTING BY RELATED CORPORATIONS.—

"(1) REPORTING BY COMMON PARENT OF AFFILIATED GROUP.—If a reporting corporation is a common parent of an affiliated group of corporations, in filing the return required by subsection (a) it shall include the information described in subsection (a) with respect to each includible corporation in such affiliated group. Such information shall be filed for the State taxable year of each includible corporation ending with or within the common parent corporation's taxable year for Federal income tax purposes.

"(2) REPORTING ON BEHALF OF OTHER RELATED CORPORATIONS.—If a reporting corporation is a member of a controlled group of corporations that includes a foreign corporation that is described in section 7518(c)(3) but is not required to file a Federal income tax return, then such foreign corporation shall, for purposes of paragraph (1), be considered to be a member of an affiliated group, of which such reporting corporation is the common parent. The preceding sentence shall not apply if the foreign corporation and such reporting corporation are included in a return filed on behalf of an affiliated group pursuant to paragraph (1).

"(c) DEFINITIONS.—

"(1) REPORTING CORPORATION.

"(A) IN GENERAL.—For purposes of this section, the term 'reporting corporation' means a corporation that is required to file a Federal income tax return for the taxable year, and that—

"(i) makes aggregate payments of at least $10,000,000 as compensation for services rendered outside the United States during the taxable year;

"(ii) owns assets situated outside the United States with an aggregate original cost of at least $10,000,000;

"(iii) has gross sales occurring outside the United States of at least $10,000,000 during the taxable year; or

"(iv) is subject to tax in at least 2 States, and owns total assets with an aggregate original cost of at least $250,000,000, at least $10,000,000 of which are located in the United States.

The Secretary shall have authority at any time to increase any dollar threshold set forth in this paragraph. The allocation of compensation payments, property, or sales to or among foreign countries shall be determined under regulations prescribed by the Secretary.

"(B) APPLICATION OF DEFINITION TO RELATED CORPORATIONS.—For purposes of applying subparagraph (A) to related corporations—

"(i) compensation paid by, property owned by, or sales made by members of an affiliated group of corporations shall be treated as if paid, owned, or made directly by the common parent corporation; and

"(ii) compensation paid by, property owned by, or sales made by members of a controlled group of corporations that are not members of the same affiliated group of corporations shall be consolidated and attributed to each member of such controlled group that is required to file a Federal income tax return.

"(2) AFFILIATED GROUP.—For purposes of this section, the term 'affiliated group' means one or more chains of includible corporations connected through stock ownership with a common parent corporation which is required to file a Federal income tax return for the taxable year if (A) stock possessing more than 50 percent of the combined voting power of all classes of stock entitled to vote of each of the includible corporations (except the common parent corporation) is owned directly or indirectly by one or more of the other includible corporations within the affiliated group; and (B) the common parent corporation owns directly stock possessing more than 50 percent of the voting power of all classes of stock enti-

tled to vote of at least one of the other includible corporations.

"(3) INCLUDIBLE CORPORATION.—For purposes of this section, with respect to any taxable year, the term 'includible corporation' means—

"(A) any domestic corporation, other than a corporation exempt from tax under section 501,

"(B) any corporation incorporated in the Commonwealth of Puerto Rico, Guam, American Samoa or the United States Virgin Islands,

"(C) any corporation defined in section 922,

"(D) any foreign corporation that is required to file a Federal income tax return with respect to such taxable year, or

"(E) any other foreign corporation that is described in section 7518(c)(3).

"(4) CONTROLLED GROUP.—For purposes of this section, the term 'controlled group' has the meaning given to such term by section 267(f)(1), except that the determination shall be made without regard to section 1563(b)(2)(C).

"(5) CERTAIN BRANCHES TREATED AS SEPARATE CORPORATIONS.—For purposes of this section, a branch described in section 7518(c)(6) shall be treated as a separate corporation that is incorporated in the United States.

"(d) STATUS OF RETURN.—If the information return filed pursuant to subsection (a), or any information reflected on such return, is disclosed or made available to a State tax agency (as defined in section 6103(d)(4)(C)), or to any common agency (as defined in section 6103(d)(4)(A)) in which a State participates, the return may thereupon be treated, if and to the extent provided by the laws of such State, as if originally filed with such State for purposes of the imposition of civil or criminal penalties under the laws of such State for negligence, fraud, or a material understatement of income or of tax liability. Except as provided by the laws of the applicable State, treatment of the information return as a State return shall not extend or otherwise affect any State statute of limitations.

"(e) DOLLAR PENALTY FOR FAILURE TO COMPLY.—

"(1) IN GENERAL.—If with respect to any taxable year a reporting corporation fails to comply substantially with the requirement of subsection (a) on or before the due date specified in subsection (a), such corporation shall pay a penalty of $1,000.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the date on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the penalty imposed by paragraph (1) or by any applicable State law) of $1,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in penalty under this paragraph shall not exceed $24,000.

"(3) IMPOSITION OF PENALTIES UNDER STATE LAW.—Nothing in this subsection shall preclude any State from imposing any fines or penalties for negligence, fraud, or understatement of income or of tax liability in accordance with the laws of that State.".

"SEC. 04. Section 6103 of the Internal Revenue Code of 1954 (relating to confidentiality and disclosure of returns and return information) is amended—

(1) by revising subsection (d) to read as follows:

"(d) DISCLOSURE TO STATE OFFICIALS, ETC.—

"(1) IN GENERAL.—Upon compliance with the procedures and requirements of paragraph 2, returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 45, 51, and 52 and subchapter D of chapter 36, returns described in section 6039A, and return information obtained by the Internal Revenue Service from any foreign government, or agency or department thereof, under the exchange of information provisions of any income tax treaty, estate and gift tax treaty or agreement described in section 274(h)(6)(C), to which the United States is a party, shall be open to inspection by, or disclosure to, any State tax agency for the purposes of, and only to the extent necessary in, the administration of the tax laws of a State, including any procedures with respect to locating any person who may be entitled to a refund. Notwithstanding the preceding sentence, return information obtained under treaties or section 274(h)(6)(C) agreements shall be open to examination or disclosure only to the extent such examination or disclosure is permitted by, and shall be subject to any limitation imposed by, the relevant treaty or agreement. Returns and return information described in this paragraph (1) relating to any taxpayer that is a reporting corporation (within the meaning of section 6039A(c)(1)) or that is a member of an affiliated group (within the meaning of section 6039A(c)(2)) that also includes such a reporting corporation shall also be open to inspection by or disclosure to any common agency.

"(2) PROCEDURES AND RESTRICTIONS.—

"(A) PERSONS TO WHOM INFORMATION MAY BE DISCLOSED.—Except as the Secretary shall prescribe by regulation, inspection shall be permitted, or disclosure made, under paragraph (1) only upon written request by the head of the State tax agency or common agency, and only to the representatives of such agency designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency. Such representatives shall not include any individual who is the chief executive officer of a State or who is neither an employee or legal representative of such agency nor a person described in subsection (n). Returns and return information shall not be disclosed under paragraph (1) to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

"(B) DISCLOSURE OF RETURNS AND RETURN INFORMATION RELATING TO SECTION 6039A REPORTING CORPORATIONS BY STATE TAX AGENCIES, AND COMMON AGENCIES.—A State tax agency or common agency obtaining returns or return information that are described in paragraph (1) and that relate to any taxpayer that is a reporting corporation (within the meaning of section 6039A(c)(1)) or that is a member of an affiliated group (within the meaning of section 6039A(c)(2)) that also includes such a reporting corporation, may disclose such returns and return information to a State tax agency of any other State, provided the State tax agency of such other State has entered into an applicabie nondisclosure agreement with the Secretary that satisfies the requirement of paragraph (2)(C).

"(C) NONDISCLOSURE AGREEMENT.—A State tax agency or common agency obtaining returns or return information that are described in paragraph (1) and that relate to any taxpayer that is a reporting corporation (within the meaning of section 6039A(c)(1)) or that is a member of an affiliated group (within the meaning of section 6039A(c)(2)) that also includes such a reporting corporation shall be required to execute a nondisclosure agreement with the Secretary prohibiting the disclosure of such returns or return information or of any data, information or conclusion extracted from or based upon such returns or return information except for the purposes of and under the conditions provided in this section. The required nondisclosure agreement shall contain such terms and conditions as the Secretary shall prescribe.

"(3) DISCLOSURE TO STATE AUDIT AGENCIES.—Returns or return information described in paragraph (1) obtained by any State tax agency may be open to inspection by, or disclosure to, officers and employees of a State audit agency for the purpose of, and only to the extent necessary in, making an audit of the State tax agency. Notwithstanding the preceding sentence, return information obtained under a treaty or section 274(h)(6)(C) agreement shall not be open to inspection by or disclosure to any State audit agency.

"(4) DEFINITIONS.—

"(A) COMMON AGENCY.—For purposes of this section, the term 'common agency' means a joint or common agency, body, or commission which has been designated under the laws of four or more States to represent such States collectively in the administration of the corporate income tax laws of those States and which has executed a nondisclosure agreement of the type described in paragraph (d)(2)(C).

"(B) STATE TAX AGENCY.—For purposes of this section, the term 'State tax agency' means any agency, body, commission or other body charged under the laws of a State with responsibility for the administration of State tax laws.

"(C) STATE AUDIT AGENCY.—For purposes of this section, the term 'State audit agency' means any State agency, body, commission, or entity which is charged under the laws of the State with the responsibility of auditing State revenues and programs.".

"(2) by striking "subsection (e)(1)(D)(iii)" in subsection (a)(3) and inserting in lieu thereof "paragraph (1) of subsection (d), subsection (e)(1)(D)(iii)".

"(3) by striking "subsections (c)" in the second sentence of subsection (p)(3)(A) and inserting in lieu thereof "subsections (c), (d)(2)(A)".

"SEC. 05. The second sentence of section 274(h)(6)(C)(i) of the Internal Revenue Code of 1954 (relating to exchange of information agreements) is amended to provide as follows: "Except as provided in clause (ii), an exchange of information agreement shall provide for the exchange of such information (not limited to information concerning nationals or residents of the United States or the beneficiary country) as may be necessary and appropriate to carry out and enforce the tax laws of the United States (whether criminal or civil proceedings), the tax laws of the beneficiary country and if the parties to the agreement agree, the tax laws of the several States of the United States, including information which may otherwise be subject to nondisclosure provisions of the local law of the beneficiary country (such as provisions respecting bank secrecy and bearer shares)."

"SEC. 06. EFFECTIVE DATE.—The amendments made by this Act, shall be effective

for taxable years beginning after December 31, 1986.".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public, that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources has made a time change to the hearing on Monday, June 16, 1986, in room SD-366 of the Senate Dirksen Office Building, Washington, DC.

The hearing will begin at 12 noon rather than at 1 p.m. as announced earlier. Testimony will be received on the second waste respository site selection under the Department of Energy's Office of Civilian Radioactive Waste Management.

Those wishing to testify or submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information regarding this hearing, please contact Ms. Marilyn Meigs or Mr. K.P. Lau at 202-224-4431.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public, that a public hearing has been scheduled before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources on Tuesday, June 24, 1986, at 2:30 p.m., in room SD-366 of the Senate Dirksen Office Building, Washington, DC.

Testimony will be received on the following measures: S. 2522, to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs; and H.R. 4378, to provide standards for placement of commemorative works on lands administered by the National Park Service in the District of Columbia, and for other purposes.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources, room SD-308, Dirksen Senate Office Building, Washington, DC 20510. Oral testimony may be limited to 3 minutes per witness. Written statements may be longer. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 50 copies on the day of the hearing. For further information, please contact Patty Kennedy or Tony Bevinetto of the subcommittee staff at (202) 224-0613

ADDITIONAL STATEMENTS

DAMAGE DONE BY DRUG ABUSE CAN CRIPPLE SMALLER COMPANY

● Mrs. HAWKINS. Mr. President, small businesses have been the driving force behind much of this countries economic success. Small businesses employ the majority of Americans and they account for a great deal of the creativity and energy that has made American business the envy of the world. But when we talk about drug abuse in the workplace, we usually focus on its affects in a large company. The affects there are serious enough, but they are even more pronounced when abuse hits a small business.

Last month Steven P. Galante wrote an article in the Wall Street Journal entitled, "Damage Done by Drug Abuse Can Cripple Smaller Company" that examined this issue. I believe that Mr. Galante's article is insightful, and I commend it to my colleagues.

Mr. President, I ask unanimous consent that Mr. Galante's article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, May 19, 1986]

DAMAGE DONE BY DRUG ABUSE CAN CRIPPLE SMALLER COMPANY

(By Steven P. Galante)

When he launched Consolidated Media Services Co. in 1982, K. Lance Botthof had big hopes. But the pressures of the Concord, Calif., film distribution company led him increasingly to cocaine, marijuana and alcohol. "I was using cocaine every weekend," he says. "It grew to every day. And then it got to be every 15 or 20 minutes."

By 1984, Mr. Botthof was spending more than $1,000 a week on cocaine. The 35-year-old businessman estimates he spent $180,000 on drugs and alcohol over a two-year period. He grew increasingly paranoid, one of the classic symptoms of cocaine addiction. As a result, he rarely visited the office during the daytime, and when he did he often snorted cocaine with a mail room clerk. "He wasn't answering phone calls, and I had to cover up for him," says Patricia Johnson, Mr. Botthof's office manager. "And of course, he wasn't going out to get new accounts." Consequently, Consolidated Media's revenue stagnated at a paltry $120,000. "It didn't have anybody making decisions that would help it grow," says Mr. Botthof, who has abstained from drugs and alcohol since participating in a treatment program early last year. Now he is attempting to rekindle Consolidated Media's growth.

Drug abuse in the workplace has become a problem for many industries, but in a small business it can be especially harmful. "I think the focus has been too much on drug abuse in General Motors and other big corporations," says Barbara Cooper-Gordon, the administrator of a chemical dependency treatment program called Stuyvesant Square at Beth Israel Medical Center in New York. "The impact on small companies can be so much more devastating."

Losing a key executive through drug addiction can cripple a thinly staffed small business, Ms. Cooper-Gordon notes. Embezzlement and expense-account padding by employees who need drug money can be far more harmful to a small company than to a corporation, she points out. Moreover, smaller companies until recently haven't been able to afford the employee assistance programs that large companies use to identify chemically dependent workers and get them into treatment. "In a small business, it can boil down to a familylike environment," Ms. Cooper-Gordon says. "One person acts out, and it can affect the entire organization."

Today's cocaine addict shares many characteristics of the alcohol abuser. "The specific agent, whether it's alcohol or cocaine, isn't the issue," says Jerry Spicer, director of professional services at the Hazelden Foundation, a treatment center in Center City, Minn. "The issue is the dependency." A New York footwear importer, for example, swore off drinking in 1981 because he realized he was an alcoholic. But the importer, who asked not to be named, didn't consider his drug use a problem. Then, he says, "very progressively the cocaine took over, the Valium took over—until it was just like the alcohol." The importer underwent treatment, though not before neglect cut his $6.5 million business in half.

Cocaine is particularly appealing to the independent, risk-taking personality—the kind that starts a small business. "The cocaine rush makes people feel quite competent, powerful and invulnerable, as if there is no task that cannot be taken on," says Arthur L. Greenberg, co-director of substance abuse treatment at Regent Hospital in New York. "This is how the drug performs its initial seduction. And what it does, ironically, is eventually erode every function, from the sexual, to the work drive, to the interpersonal."

In a small company, cocaine's influence can be all-pervasive. Mr. Greenberg tells of the owner of a small paper-products company who distributed cocaine to employees. "The owner was excited about building his business and wanted the employees to work as hard as he did," Mr. Greenberg says. "How do you get employees to stay on the job with you? You can offer them overtime. Or you can offer them free cocaine.

"Basically, the work schedule depended on when the boss was there, and he kept very weird hours." Mr. Greenberg says. "He would call people up at strange hours and say, 'We have an order that we have to get out. Come in; there's three grams waiting.'" At one point, Mr. Greenberg says, "the employees threatened to stop producing on a very important order unless he got them more cocaine. And he did." The owner finally entered treatment when his wife demanded a separation, his health deteriorated, he started contemplating suicide, and his employees began staying home ill.

Help is slowly arriving for small business with chemically dependent workers. Though employee assistance programs are usually too expensive for small employers to operate themselves or to contract for individually, program operators are starting to organize consortiums that allow small companies to share costs. The programs usually charge $10 to $20 per employee each year to educate the work force about dependency, to assess workers with addiction problems and to refer them to health providers for treatment. The treatment itself is often covered by an employer's health insurance.

"As the (employee assistance) field grows," says Debra L. Reynolds, vice president of COPE Inc., an employee assistance

program consortium in Washington, D.C., "people are beginning to realize there's a market in small businesses, because each person in a small business wears many hats. And if one employee goes haywire, the whole company can get out of sync."●

POSTAGE RATES

● Mr. SIMON. Mr. President, I recently read a reprint of a column by JoAnn McNaughton-Kade, of the Effingham Daily News, regarding postage rates.

I could not agree with that more.

As Members of this body know, I have opposed increasing the senselessly increasing rates for newspapers, magazines, and books, because they are a vital source of information for the people of our Nation.

I always remember visiting with the publisher of the Paducah Sun, who told me that the rural subscriptions were going down because of increased postage rates and the resultant increased subscription rates. That means that those people on the rural routes were increasingly dependent on 30-second television clips for their basic news.

Can anyone really believe that is good for the country?

I urge my colleagues to read the column by JoAnn McNaughton-Kade, and I urge the Postmaster General and officials at the Postal Service to read it also.

I ask that the column be printed in the RECORD.

The column follows:

"The U.S. Postal Service has placed a noose around the neck of the small-town newspaper. Now, with hardly a pause for last words from the victim, the postal governors are tightening the knot and preparing to release the gallows' trap door.

"In this space last Tuesday, I outlined how the U.S. Postal Service is endangering the continued existence of small-town newspapers through huge rate hikes for second-class mailing—a principal means by which most papers circulate their publications.

"Over the last 15 years, second-class postage has risen more than 1,000 percent—despite an inflation rate for that same period of 'only' 288 percent. Then, on Jan. 1, the rates went up again—by 40 to 60 percent for some categories of the complex second-class rate structure, to as much as 116 percent for another.

"The day after that column appeared—we presume it was coincidence—we received a letter from our local post office informing us of yet another rate hike that would take effect on March 9.

"I use the word 'may' because these hikes have been delayed before. If past practice prevails, though, we'll receive word of the rate hikes' approval on about March 7, just before it becomes law.

"The latest rate hike would affect all 'in-county' mailings—meaning, for instance, all issues of the Effingham Daily News sent to mailboxes in Effingham County. In the space of one month, we sent out more than 50,000 papers in-county.

"If the March 9 rate hike takes effect, the cost of mailing a single copy of our newspaper to a home in Effingham County will have gone up from 1.5 cents (in December) to 3 cents—or 3.2 cents; the Postal Service has actually offered two proposals for the March 9 increase—for an increase of 100 percent in just 2½ months.

"Last year, before the most recent increases, this newspaper spent $70,000 to mail issues of the daily paper to its subscribers. In addition, we spent another $71,000 in third-class postage to deliver the Weekly Advertiser. These are huge expenditures, but they may seem like peanuts when we add up the bill for 1986.

"If you think I exaggerate when I say that the postal system is putting a noose around our necks, talk to the publishers of your local weeklies.

"We spoke to the managers and publishers of more than a dozen local dailies and weeklies last week. All of them expressed great concern about the futures of their papers in the light of the 'postal squeeze.'

"Almost all of them have already raised the cost of mail subscriptions, or will shortly be doing so.

"Most of them are furious not just over the postage increases, but also because the delivery service they receive is less dependable now than every before.

"P.J. Ryan speaks well for the rest of his colleagues. Ryan is publisher of the Beecher City Journal, as well as the Stewardson Clipper.

"The Beecher City Journal has been in Ryan's family for 71 years. Its circulation of roughly 1,200 is delivered almost solely by second-class mail. He notes that 'we'll be forced to raises our rates' for subscriptions . . .

". . . he called the postage increases 'the biggest threat' to its existence his paper has ever faced. That's a strong statement when one considers that, in 71 years, his family has contended with the likes of the Ku Klux Klan, the Great Depression and the technological change from 'hot type' to 'cold type.'

"In Ryan's view, the issue posed by the postage increases is not simply that people will have to pay more for their newspapers. Rather, as the small papers fold, there will be 'fewer and fewer sources of information. . . . It gets scary,' he said.

"The postage increases, in other words, threaten not just the livelihood of newspapers. The Postal Service is also threatening the people's right to know what goes on in their communities. The government, in the form of the semi-independent Postal Service, is not just launching a further, if unwitting, assault of small business. It's threatening an integral component of democracy."

NATIONAL NUCLEAR MEDICINE WEEK

● Mr. D'AMATO. Mr. President, I rise this afternoon to lend my support to legislation introduced by my good friend and colleague from Indiana, Senator QUAYLE, to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week." I am pleased to cosponsor this joint resolution to elevate public awareness of the contributions of nuclear medicine to the diagnosis and treatment of diseases through safe and cost-effective procedures.

Generally, there are two types of procedures involved in nuclear medicine: Those involving radioactive tracers in the analysis of blood and urine samples, and those in which measurements are made of radioactive tracers as they pass through the body. This latter procedure has provided a whole new approach to medical diagnosis.

Small amounts of radioactive chemicals, called "tracers," are typically injected into a blood vessel. The amount of radioactivity at different points in the body is then examined by radiation detectors. Only in the past few years have these detectors, by being placed in a ring around the patient's body been able to develop three-dimensional imaging. This imaging depicts where biochemical processes are occurring normally, where they are deficient, and where they are taking place at an accelerated rate.

By making early detection of disease possible, regional abnormalities can be found before the overall function of an organ has become impaired. Early detection is a must when considering that such methods are used to examine the brain, liver, lungs, heart, bones, gall bladder, thyroid gland, blood vessels, lymphatic systems, among many others. In addition, these methods are essentially pain free, noninvasive, and generally involve much smaller doses of radiation to the patient than do comparable x-ray procedures.

Although most procedures of nuclear medicine are used for diagnostic purposes, radioactive substances are also used for therapeutic benefits. Radioactive iodine, for example, is used for therapeutic treatment of hyperthyroidism. Radioactive iodine, or iodine>131, is used to treat roughly 20,000 patients with hyperthyroidism every year. This medical breakthrough has reduced the number of patients treated surgically for hyperthyroidism from 3,000 per year to about 50 per year.

Mr. President, these just are a few of the current uses of radioactive tracers in nuclear medicine. Today's research, however, is tomorrow's medical practice. Ongoing research in the field of nuclear medicine promises an exciting future in the diagnosis and treatment of diseases far beyond our limited understanding of today.

I urge my colleagues to lend their support to this joint resolution on behalf of the contributions of nuclear medicine to the health of the American people.●

PROTECTION OF THE SOCIAL SECURITY TRUST FUND ASSETS

● Mr. PRYOR. Mr. President, on June 11 I joined with Senator MOYNIHAN and other colleagues in sponsoring S. 2542, legislation which will ensure appropriate and prudent financial treatment of the Social Security trust funds. This legislation is an important followup to legislation approved in

late 1985 and early 1986 to correct trust fund disinvestment actions which occurred in 1984 and 1985.

Last November Members of Congress and the public were alarmed to learn that in the fall of 1984 and again in September, October, and November of 1985 the Department of the Treasury had taken unprecedented actions to disinvest large amounts of the short and long-term securities held by the Social Security, civil service and military retirement, railroad retirement and Medicare funds. This action was necessary because the Treasury had such limited cash reserves on hand that it could not make the cash transfers necessary to follow the normal benefit payment procedures, and the Secretary had to cash our investments in order to issue benefit checks.

This action caused a great deal of concern. Press accounts which stated that the trust fund securities were being cashed out to pay for other programs did not help matters. And the fact that members of the Social Security Board of Trustees were unaware of the action caused additional concern and suspicion. From the time of the passage of the 1983 Social Security financing amendments until last fall, we had been consistently assured of the soundness of the Social Security retirement trust funds. The disinvestment action caused fear throughout the Nation, and greatly altered the public's perception of the stability of the Social Security Program.

In the months following the publicity about the disinvestment action, the Congress acted speedly to restore any loss to the Social Security and other trust funds which resulted from the disinvestment action. In addition, we required that the Secretary of the Treasury give advance notice of any intention to disinvest trust fund assets. By early January 1986 the Treasury had successfully restored to the trust funds all moneys which had been lost as the result of disinvestment action. The legislation I have joined in sponsoring will take additional steps to ensure the security of the trust funds.

Specifically, the legislation:

Eliminates the Secretary of the Treasury's discretion in deciding to invest contributions by requiring that the OASDI funds be immediately invested in interest-bearing Government securities;

Prohibits disinvestment of the Social Security trust funds except in months in which payroll receipts are expected to be less than required for payments to beneficiaries;

Requires the managing trustee—the Secretary of the Treasury—to report monthly to the Board of Trustees on the operation and status of the trust funds;

Requires the managing trustee to exercise the same degree of care in managing the trust funds as would a private fiduciary; and

Requires trust fund moneys to be used exclusively for Social Security purposes.

As a member of the Finance Committee Subcommittee on Social Security, I am deeply committed to ensuring the financial stability of the trust funds, and it is my hope that the Congress will move forward and enact this important legislation.●

SALT: EUROPEAN VIEWS VARY

● Mr. QUAYLE. Mr. President, one of the key arguments made for continuing to adhere to SALT in some fashion is that it is essential to keep our European allies happy.

The presumption in all of this, of course, is that European opinion is unified in opposition to the United States dropping its adherence to SALT. In fact, European views vary.

In two recent editorials published in the British publications, the Econonmist and Financial Times arguments were offered on how the President's decision should help arms control.

This same point was made in today's Wall Street Journal editorial: Over time Europe is likely to accord Reagan's decision more respect.

Mr. President, I believe Europeans are already reflecting upon the wisdom of our moving beyond SALT to truly substantive arms control. I ask that the full text of the Economist, Financial Times, and Wall Street Journal editorials be placed into the RECORD.

The editorials follow:

[From the Wall Street Journal, June 13, 1986]

SALT II AS P.R.

Critics of President Reagan's decision to abandon SALT II are saying something like this: Sure the Senate refused to ratify SALT II in 1979, sure the treaty would have expired last year had it been ratified, and sure it didn't do much to limit proliferation of nuclear weapons; but why should the U.S. be the side to destroy the world's arms-control illusions?

In case there was any confusion about the status of SALT II growing out of the president's press conference Wednesday night, White House spokesman Larry Speakes cleared it up yesterday. SALT II is dead. Future U.S. arms-control moves will be predicated on what the Soviets do.

The abandonment has not gone down well in some quarters. House Majority Whip Thomas S. Foley (D., Wash.) argued at a Center for Strategic and International Studies (CSIS) seminar Wednesday that Mr. Reagan's move was a serious political mistake. The Europeans especially, he asserted, need constant reassurance that the U.S. believes in arms control. Reporters at the president's news conference Wednesday night echoed Rep. Foley's complaint.

In other words, arms-control talks and agreements are mainly public relations. We are clearly making progress in this debate when that truth is recognized.

So for a moment let's lay aside military questions, such as the fact that U.S. adherence to a defunct, ineffective agreement did not prevent the Soviets from doubling the size of their nuclear arsenal. Just how effective has SALT been on its own terms, how effective as public relations?

It has been a Russian goal for centuries to control the Eurasian continent. The Muscovities haven't done badly. Zbigniew Brzezinski noted at the CSIS seminar that over the past 250 years Russia has expanded its empire at the average rate of one Vermont *a year*! Since World War II, the Russians having initially failed to capture France and Italy with uprisings by local communist parties, have been trying to sell Western Europe a prescription for security: You will be safe from our missiles and tanks if you invite the Americans to leave. This is the P.R. threat SALT is intended to offset.

Some American strategists who take the NATO alliance seriously, and Rep. Foley seems to be in this camp, believe that this makes it essential for the U.S. to constantly demonstrate to the Europeans that it is doing everything it can to keep the peace. In short, the Europeans, presumably more gullible than Americans, must be given a steady diet of fairy tales if they are to remain within the Western alliance.

Aside from its condescension toward the Europeans, this argument has two problems. The self-imposed pressure allows the Soviets to exploit the arms-control process to force the U.S. to accept limits that the Soviets have no intention of observing. And it places too much importance on those manifestations of European "opinion" that are essentially left-wing and at least to some extent Soviet influenced and Soviet financed. All Europeans are not alike; in France, for example, Mr. Reagan's alleged "recklessness" in raiding Libya won him a popularity reading exceeding 60%.

Over time, we think, Mr. Reagan will be accorded more respect, both in Europe and the U.S., for having confronted the dangerous illusion that the U.S. and the Soviets are practicing arms control. The European majority has few illusions about the Soviet Union and its minions, and its spirit will grow if it is no longer fed a constant diet of fairy-tale P.R.

The most significant hope to be found in Mr. Reagan's new attitude toward SALT is that he may now move to free himself from restraints that have prevented him from making the fullest use of American technological superiority to protect both the U.S. and its allies from that unrestrained build-up of Soviet weapons. The "restrictive" interpretation of the ABM treaty continues to inhibit research on the Strategic Defense Initiative. And the administration says it doesn't agree with this interpretation but continues to follow it, as it followed SALT II.

Thirty former Soviet scientists now working in the U.S. have just drafted an open letter to the American people and Congress saying that the Soviet Union has been working on its own Strategic Defense Initiative since the 1960s and continues to apply more effort to defense than does the U.S. (see Notable and Quotable nearby). That won't come as news to American nuclear strategists, but it is a useful reminder in any interpretation of Soviet efforts to dissuade the U.S. from pursuing strategic defense.

Mr. Reagan has left the door open to the Soviets if they want to talk seriously. But yesterday's explicit statement that SALT II

is dead shows that Mr. Reagan does not see security as merely a P.R. problem.

[From the Economist, June 7, 1986]

SALT-2 Is Dead—Long Live SALT-3

It has been hand-wringing time for arms control this past couple of weeks. To judge by many people's laments, the chances of a missile-cutting deal between Russia and America have almost vanished. In fact, they have improved: because of an intelligent Russian concession, and a risky but shrewd piece of American poker-playing.

The Russians' concession is their reported lowering of the price they want President Reagan to pay in his star-wars plans in return for their agreement to slash the superpowers' long-range missile forces. Instead of asking Mr. Reagan to abandon everything except "laboratory research" for his Strategic Defense Initiative, the Russians now seem willing to settle for much less. They may be ready to let Mr. Reagan continue his experiments with anti-missile weapons provided he undertakes, by an amendment of the anti-ballistic-missile (ABM) treaty, not to deploy for a given number of years any such weapons that actualy turn out to work. That brake on deployment would limit the lead that America could get over them.

The Russians have been looking more relaxed about star wars lately. They have read in western newspapers (and presumably know from their own research) how tricky star-wars technology is. They can see Congress's reluctance to give Mr. Reagan the money he wants for it. They have already stopped saying that star wars has anything to do with medium-range missiles in Europe. The 15-20 years' ban on deployment of anti-missile weapons they are now said to be suggesting, in return for a long-range missile deal, is much too long (*The Economist* suggested three to five years when we first proposed this solution 15 months ago). But Mr. Reagan almost certainly has to give something on SDI. The Russians may now be hinting that he will not have to give too much.

The American poker-play was President Reagan's announcement that America will soon step outside SALT-2's limits on nuclear weapons unless Russia steps back inside them. The past fortnight's attack of the glooms, which this set off, was exaggerated.

That Mr. Reagan would this time renounce the SALT-2 agreement, having twice before resisted pressure to do so, was more or less inevitable. Nobody seriously disputes that Russia has a total of 2,500-plus nuclear missiles and bombers, compared with SALT's ceiling of 2,250 (the present American total is about 1,900). Most people accept that Russia's new SS-25 missile breaks the agreement (and that its Krasnoyarsk radar breaks the ABM treaty). Although other governments may tell America to protest about these things but do nothing, few would be so nonchalant if they were in America's place. The counteraction that Mr. Reagan is now threatening seems unlikely to produce catastrophic results (see page 56). For both sides, the first ventures outside SALT will probably be on tiptoe rather than on stilts. But the main reason for saying that the current lament for SALT-2 is unwarranted is that what America has just done may have the effect of pushing Mr. Mikhail Gorbachev towards a new and better SALT-3.

Consider Mr. Gorbachev's calculations. Until now, his nuclear-weapons choice has been either to keep things as they are (the SALT-2 figures, plus a bit of Russian fiddling) or to go for the deep cuts the Americans have been suggesting since 1983. His own instinct is probably for cuts, but his reluctant generals still have powerful allies in the Politburo. Mr. Reagan has now put an unwelcome third possibility before him: another big round of nuclear spending.

Russia's first additions to its present nuclear armoury—more warheads in its big missiles, more missiles off existing production lines—would be fairly cheap (but so would the cruise missiles that America will add). After that, big money would be involved. Everything Mr. Gorbachev has said about his country's economy suggests that he will not reduce military spending unless America does too, but that he certainly does not want to increase it. If he concludes that he now has to choose between negotiated cuts and another arms race, he may prefer the cuts.

That the month when America may stick its first toe outside SALT-2—November—is also the month when Mr. Reagan would like to have his next meeting with Mr. Gorbachev is one of those coincidences that deserve a quiet smile. Russia and America are not far apart in their ideas about reducing the number of long-range missiles, except for the star-wars argument (which Russia may now be helping to solve). A deal on medium-range Euromissiles ought to be fairly easy, if Russia agrees to cut its SS-20s in Asia and is allowed some compensation for any future expansion of the French and British nuclear forces. The prospects of cutting the overkill are better than they have been for years, provided Russia's conservatives do not keep Mr. Gorbachev sitting on his status quo. He may have been given the nudge that will get him off it.

[From the Financial Times, June 9, 1986]

A Soviet Paddle, Perhaps, for Mr. Reagan's Canoe

(By Ian Davidson)

President Reagan's declaration of intent to throw over the nuclear weapons limits enshrined in the 1979 Salt II treaty continues to generate heated controversy on both sides of the Atlantic. Democrats in the US have denounced it; European governments have deplored it; the Russians have threatened counter-retaliation, and warned that it could jeopardise the second Reagan-Gorbachev summit due some time later this year.

But the interesting thing is that the controversy is not as heated as one might have expected. The Russian condemnation, in particular, seems muted and formal. They have protested, but the tone of their protest has been carefully controlled, and their threats of retaliation have sounded deliberately non-specific and conditional.

The explanation may be simple. President Reagan's decision will not be implemented until November or thereabouts and has been hedged with a let-out clause: if the Soviet Union does something to deal with American accusations that it is already violating the Salt II treaty, or perhaps if the Geneval negotiations on new arms control agreements start to make real progress, Washington might "take this into account." In theory, therefore, there could still be just time to avert the worst. President Reagan has allowed the hawks in his administration to push his water-logged canoe towards the rapids; the waterfall is still five months away; can any of the available rescue teams paddle fast enough to rescue him in following President Reagan time? It may be doubtful, but it is still possible.

There may also be a second explanation. From a higher vantage point in the canyon, it looks as if the waterfall is not, after all, a waterfall but a series of steeply descending pools. Deeply dangerous, of course, especially for a navigator who does not know one end of a canoe from the other, but not necessarily and absolutely terminal.

The equipping of one extra B-52 with air-launched cruise missiles beyond the limits permitted under Salt II would be a very important political step to take, but in military terms it would be meaningless; and the same distinction would apply if the Russians were to match a symbolic American violation with an exactly equivalent violation of their own.

Eventually, a process of tit-for-tat might start to affect the military balance, especially if it gathered momentum. But the Russians should have no desire, and above all no interest, in down the rapids. During the 1970s they built up their nuclear weapons at all levels, while the American inventory stayed pretty static; this gave them the appearance of an edge, and contributed in 1980 to the election of Ronald Reagan and his rearmament programme. If the unravelling of arms control were to lead to an unconstrained arms race, the Russians know it would be very expensive and politically uncomfortable, but they do not know that it would turn to their advantage in military terms.

They could easily multiply the numbers of warheads on top of their heavy land-based missiles. But the US has a large number of new weapons systems in deployment or development: the MX land-based missile, the Trident D-5 submarine-launched missile, the B-1 bomber, the Stealth bomber, the Midgetman small mobile missile, and advanced cruise missiles. The accuracy of these weapons may enable them to destroy hardened military targets; so that the multiplication of warheads on the Soviet SS-18 silo-based missiles, which until now have looked particularly threatening to America's land-based missiles, might instead start to look like a serious point of Soviet vulnerability, at risk to an American first strike.

President Reagan's freedom to go down this road is currently constrained by Congressional support for arms control defense spending. But the Russians cannot be sure that these constraints would not be lifted if they are seen to be engaging on their side, in a new arms race; nor can they be sure that a new arms race would not be used to restore urgency and legitimacy to President Reagan's Star Wars programme which, even if it never results in any effective defences, would certainly drive the development of high-technology weapons in which the US has overwhelming advantages.

In other words, the Russians have good reasons to avoid overreacting to President Reagan's latest move, even if he splashes over the edge into the first pool below. Who knows, it might still be possible to prevent him from being swept all the way to the bottom, with outstretched hands to drag the leaky craft to the side, and by skillful and determined poterage bring it back up to the calmer waters of Arms Control Reach. It would not be easy; but it might be conceivable.

One tantalising hint of an outstretched Soviet hand emerged the same week that President Reagan launched himself down the rapids: in Geneva, the Soviet delegation made what could turn out to be a radical shift in its attitude to Star Wars.

Until now the Russians have been demanding an absolute ban on any testing or deployment of Star Wars defences, under a strict interpretation of the 1972 Anti-Ballistic Missile treaty. (This interpretation is endorsed by most US experts though it has recently been contested by some Administration lawyers.) In what seems to be a major shift of line, the Russians are now proposing instead a guarantee that there would be no testing or deployment for an extended period—say 15 or 20 years.

The ABM treaty is in principle of indefinite duration; but it can be denounced by giving six months' notice. The implication of the new Soviet proposal is not merely that the wording of the ABM treaty would be tightened to exclude any slippery interpretation, but that this six-month denunciation notice would be changed to 15 or 20 years.

The proposal makes sense in political as well as in arms control terms. Last November's Geneva summit meeting made clear to Mikhail Gorbachev, if he did not know it before, the depth of President Reagan's commitment to his dream of a perfect sanctuary from nuclear weapons. Whatever else may be attainable in the arms control negotiations, President Reagan will certainly not agree to an explicit renunciation of that dream.

Fewer and fewer people now seriously believe that any amount of high technology could ever take America to the end of that particular rainbow. I recently met an analyst at a leading US military research establishment, which is trying to work out how a defensive system could be deployed without being vulnerable to Soviet counter-measures. In the process, the researchers hold formal debates. "The trouble is," he said "that everybody wants to be on the Red (i.e. Soviet) team."

An arms control seminar the other day was considering whether it would be possible to make a safe transition to spacebased defences. The conclusion? Very, very difficult. A military-research analyst at the seminar described a study of the more limited problem of groundbased defences, to protect missile silos, for example, as permitted under the ABM treaty. Question: if both sides are allowed the same number of interceptor missiles, which number is best for the US? Answer: Zero.

Rational analysis will not release Mr. Reagan from his dream, however. So if there is to be an arms control agreement, it must encompass a contradiction: the President must be able to claim that Star Wars is still alive and well: the Russians must have near-certainty that the dream will remain a dream until long after Reagan has gone. Perhaps that contradiction can be reconciled by lengthening the denunciation notice.

A long denunciation period would also match the needs of any plan to cut strategic nuclear weapons. For mutual confidence, deep reductions would have to be phased over, perhaps, 10 years. Presumably the new lower totals would stay in force for several more years, say five. Total: 15 years.

Administration reaction to the Soviet shift is predictably divided. The doves seem cautiously interested; the hawks describe it as a trap, because they fear that it could skewer Star Wars on the slab. In the most optimistic scenario the Soviet hint could presage the beginning of movement in the Geneva negotiations; if movement led to real momentum, the prospects for arms control and for a summit later this year could be transformed; and in that case, the deployment of the extra B-52 would scarcely matter.

Moreover, in exchange for the long-term stability of a new arms control agreement, the Russians might be prepared to rectify violations which they deny in the context of the old.

But it is obvious that the most optimistic scenario is not the only one; indeed, the cards look stacked against it. The Soviet shift may be encouraging in theory, but it will not by itself achieve anything. Mr. Gorbachev may think that he is offering a significant concession on Star Wars, and from his point of view he is right; but President Reagan will regard it as an American concession on Star Wars, without a compensating advantage. He will not bang heads together in Washington and come down decisively in favour of arms control, unless a major agreement on the control/reduction of offensive weapons, on terms which the hawks cannot plausibly reject, comes within reach. Until the Russians start to move on this front, optimism will be just wishful thinking.

The real danger in the short and even medium term is not that the 131st B-52 bomber will trigger the unstoppable process of a new arms race, nor that it will lead to a major crisis in relations between the two superpowers, but that it could start a major quarrel between the US and its European partners. The Salt treaties may not have done much to contain the arms race, but they are what we have; to throw them away like that looks recklessly irresponsible. The question facing Mr. Gorbachev is this: would such a quarrel help the Soviet Union, and should he try to foment it? If it played into the hands of the quasi-neutralists in Europe, like the Labour Party, the answer is yes; if it strengthened the position of those, like Mr. David Owen, who argue for a stronger European defence identity, the answer is no. Since he cannot know which is more likely, I suspect he will play safe and try to rescue Reagan from the rapids.●

NAUM AND INNA MEIMAN: IN THE NEWS

● Mr. SIMON. Mr. President, I have made a daily statement on the plight of Inna and Naum Meiman since March 6, 1986. Naum and Inna are Soviet Jews who have been refused permission to emigrate to Israel. Inna is critically ill with cancer and Naum is getting no younger. He is 74.

Today's Washington Post carries an article written by Celeste Bohlen entitled "Ailing 'Refuseniks' Seek Aid." The subtitle is "Moscow Denies Visas to Cancer Victims." The story focuses on Naum and Inna Meiman. Naum and Inna have taken an enormous risk by going public with their story. The Soviet Government does not look kindly on those who make the Soviets appear in a bad light.

The Soviets will continue to get "bad press" for not allowing Naum and Inna Meiman to emigrate to receive badly needed medical care. The easiest solution for the Soviets is to let Naum and Inna go to Israel.

I ask that the article from the Post be printed in the RECORD.

The article follows:

AILING "REFUSENIKS" SEEK AID—MOSCOW DENIES VISAS TO CANCER VICTIMS

(By Celestine Bohlen)

Moscow, June 12.—With new urgency and new hopes, three families of Soviet Jews seeking permission to emigrate appealed today for help in getting medical treatment abroad for relatives stricken by cancer.

"We especially want to appeal to the people of the world to pay attention to our desperate situation," said Naum Meiman, 75, a human rights activist whose wife Inna Kitrosskaya suffers from cancer of the spine.

Kitrosskaya, 53, who has undergone four operations in the last three years and is now being treated with chemotherapy, has been invited abroad by several doctors. But she has been repeatedly denied even a temporary visa because of her marriage in 1981 to Meiman, a mathematician who did classified work 30 years ago.

"It is a killing, a murder in fact," said Meiman today.

Jewish emigration from the Soviet Union has slowed to a trickle since 1979 when it reached its peak of 51,000. Last year, about 1,000 people were given permission to leave.

Refuseniks, as those refused permission to emigrate are called, say tens of thousands have applied to leave. On Tuesday, the official Soviet news agency Tass scoffed at reports from Washington that 400,000 Jews are waiting to leave, saying that the figure is "overstated more than 100 times."

The small group of families of invalids gathered amid reports that new cases of refuseniks have been resolved favorably.

A Soviet official recently said permission has been given in 71 cases for Soviets to join family members in the United States. These cases involve "more than 200" people, the official said.

So far, the full list of cases has not been disclosed here, although several well-known refuseniks have recently been allowed to leave. One, Boris Gulko, a former Soviet chess champion, left with his family after several public demonstrations.

For Meiman and the others, the new hopes come after years of waiting. Benjamin Bogomolny, 40, applied to leave the Soviet Union for Israel 20 years ago, making him thje longest waiting refusenik.

Bogomolny's wife, Tatiana Kheifetz, underwent surgery for breast cancer seven months ago. She has been told that her request for a visa was refused because her husband had served in the Soviet Army, and his departure would be a security risk.

Benjamin Charny, 48, applied to emigrate to Israel in 1979 and shortly afterward was diagnosed as having melanoma. Like many other refuseniks, he and other members of this family lost their jobs.

Mr. President, I implore the Soviets to let Naum and Inna Meiman emigrate to Israel.●

STATE OF EMERGENCY IN SOUTH AFRICA

● Mr. PELL. Mr. President, yesterday the tragic and potentially explosive situation in South Africa took another turn for the worse. The South African Government imposed a state of emergency—the second in less than a year—and ordered its security forces to move against those who have been at the forefront of the struggle

against apartheid. Hundreds of antiapartheid activists associated with black community organizations, churches, trade unions, the United Democratic Front, the Azanian People's Organization, and the End Conscription Campaign have been arrested. Reportedly, Government forces are continuing their sweep through the black townships in search of others. The security forces have been given far-reaching powers including the right to use force. Strict restrictions designed to prevent the South African people and the international community from viewing the unrest have been imposed on the local and foreign press and media.

In an attempt to justify these actions, South African President P.W. Botha pointed yesterday to the increasing violence in the black townships and the threat of "large scale unrest planned by radicals" on June 16, the 10th anniversary of the 1976 Soweto uprising in which some 600 blacks were gunned down by Government forces. However, the roundup of antiapartheid activists leaves little doubt that the South African Government's real purpose is to undermine the antiapartheid movement which is growing among blacks and even expanding into sectors of the white community.

By resorting to repressive measures and Gestapo-like tactics, the South African Government has demonstrated not only its failure to understand the causes of violence in South Africa but also the shallowness of its stated commitment to "reform" and negotiation. The violence in the black townships is rooted in the evil and inhumane apartheid system which denies blacks full political rights and deprives them of social and economic opportunities. The frustration and anger at being on the bottom rung of a ladder where rights and privileges are granted according to the whiteness of one's skin have come to a head in the last 2 years with the implementation of a new constitution that deliberately denies parliamentary representation to blacks and the introduction of the police and soldiers into the black townships. The brutal use of force against blacks, many of them children, combined with the Government's refusal to release Nelson Mandela and enter into negotiations with legitimate representatives of the black community have spurred South African blacks on to new heights of resistance and determination.

In his State of the Union Address in January, President Botha stated:

> We have outgrown the outdated colonial system of paternalism as well as the outdated concept of apartheid.

Yet, since then, South African Government has opened fire on thousands of peaceful black protesters, conducted raids against the capitals of neighboring Zimbabwe, Zambia, and Botswana in what Botha characterized as the "first installment" in a campaign to crush the African National Congress, introduced new legislation that would give the police extensive powers in areas of unrest and the right to detain people for 6 months without charge, and rejected the proposals made by the Commonwealth's Eminent Persons Group to bring an end to the violence and open negotiations with genuine black leaders. By most accounts, the South African Government is also aiding and abetting vigilante groups in the Crossroads squatter camp in an effort to drive the people out. The violence in Crossroads has claimed the lives of more than 30 blacks and left some 30,000 homeless. The Government's recently announced abolition of the pass laws—a potentially positive step—pales against this litany of its disregard for the legitimate aspirations of the victims of apartheid.

The reimposition of the state of emergency will surely be an ill-fated decision. Rather than quelling the level of violence, it promises to increase it. On Monday black South Africans will remember Soweto 1976 by taking to the streets in defiance of the Government's insensitive and provocative ban against commemoration activities. If the Government responds with force, as I fear it will, the number of deaths, which now stands at more that 1,600, is bound to rise.

In its report issued this week, the Eminent Persons Group forecast a "racial conflagration with frightening implications * * * in the very foreseeable future" unless the South African Government abandons its "obstinancy and intransigence." As a nation committed to peace and justice, the United States has a moral and political obligation to help all the people of South Africa to avoid this end. We must move beyond the President's Executive order. We must adopt a sustained policy of pressure which will prod the South African Government toward the negotiating table and make it clear to South African blacks that we are on their side. The time to act is now, lest the opportunities for peaceful change slip away and the clock runs out.●

TENTH ANNIVERSARY OF COOK COUNTY OCCUPATIONAL MEDICAL PROGRAM

● Mr. DIXON. Mr. President, I would like to call to the attention of my colleagues the 10th anniversary of the Cook County Occupational Medical Program, which will be celebrated tomorrow.

This splendid program provides badly needed occupational health services to residents of Cook County and surrounding areas. The Cook County Hosptial is responding to a national advisory from the Graduate Medical Education Council, which noted a severe deficiency in the number of adequately trained physicians in the field of occupational medicine.

Cook County is at the forefront of this national problem, training physicians in both occupational medicine and in occupational consulting with various governmental policymaking bodies.

I commend all the hardworking people who have made this program such a model of its kind, and I wish all of them the very best of luck in the future.●

SPEECH BY PAMELA C. HARRIMAN ON THE 40TH ANNIVERSARY OF WINSTON CHURCHILL'S "IRON CURTAIN" SPEECH

● Mr. BUMPERS. Mr. President, I wish to bring to the attention of my colleagues in the Senate and to the Nation a speech given on May 19, 1986, by Pamela Harriman commemorating the 40th anniversary of Winston Churchill's historic speech at Westminster College, Fulton, MO—the famous "Iron Curtain" speech. Mrs. Harriman has presented Churchill's message, his foresight, and his wisdom in a most eloquent manner.

His prescription for a just peace in the post-World War II era is no less true today than it was 40 years ago. Churchill not only advocated a tough stance against the Soviets. He also sought to establish a just and lasting peace in a nuclear age. He insisted there was a common base on which to deal with the Soviets—neither side could successfully wage a nuclear war against the other. With that mutual common base, he urged us to approach them with caution and resolve, but to approach them nevertheless.

Churchill's advice cannot go unheeded. We cannot survive this nuclear age without a constant effort toward peace. We must negotiate firmly, but we should negotiate with every intention of achieving an agreement. Pamela Harriman has emphasized this point in Churchill's message with penetrating clarity. I ask that her speech appear in the RECORD.

The speech follows:

> Today we honor the anniversary of an event, which, like so many in Winston Churchill's life was accounted as an historic moment, and yet the man himself was out of power. He was unique among the leaders of twentieth century democracy in that his influence did not disappear with his office. Perhaps his only rival in this respect was General DeGaulle—who pales by comparison with Churchill's capacity to stand astride the world stage, even while relegated to the backstage of opposition in his own country.
>
> This role had not come easily, or early to Churchill. In his long political exile of the 1930's, he was a lonely voice, "crying in the wilderness," and few turned to hear him or

to see the approaching storm. Yet he never tired, for he always knew that history, too, had its claims. Perhaps he understood that because he wrote history as much as he made it. He was an author as well as an orator. He was not only a Prime Minister; he was also a prophet of things to come.

It was this unique ability that he took with him to Fulton, Missouri, forty years ago last March. Winston Churchill made his mistakes; but he was more often right than wrong on more matters of consequence than any other statesman of this century.

He was not only an early, isolated critic of appeasement. He was also one of the first—perhaps the first non-scientist—to comprehend and describe the dawning wonders and terrors of modern invention. In a 1932 essay—more than a decade before the Manhattan project—he speculated, "that new sources of energy, vastly more important than any we yet know, will surely be discovered. . . . Nuclear energy is incomparably greater than the molecular energy we use today. . . . There is no question that this gigantic source of energy exists. What is lacking is the match to set the bonfire alight, or it may be the detonator to cause the dynamite to explode."

He wrote of "wireless telephones and televisions"—and of genetic engineering. He looked to a time, "fifty years hence," when "explosive machinery will be available upon a scale which can annihilate whole nations." In 1925, he wrote of "guided missiles" and of "electrical rays which could claw down aeroplanes from the sky."

Churchill was different from most political leaders in that he thought beyond the next election to the next generation. It was this sense of perspective which enabled him to persevere despite recurring disappointments in his public life. His moment of triumph did not come until he was sixty-six, past the normal retirement age, and long after he had been written off. In its greatest trial, Britain found its greatest modern leader. Yet five years later, with the war won, he was defeated for reelection. He had the world's honor and respect, but not his country's vote.

So it was that a year after that, President Truman invited Winston Churchill—as prophet and not Prime Minister—to speak in Truman's home state, at Westminster College—"a name," as Churchill said, "somewhat familiar to me." It was five thousand miles from the Parliament at Westminster to this midwestern college podium. And the speaker of the day brought with him one of the most famous speeches of all time, a speech which is so often cited as a text for our time.

When he spoke of the "Iron Curtain" that had descended from "Stettin in the Baltic to Trieste in the Adriatic," Winston Churchill was acknowledging and announcing a truth which so many in the West were so unwilling to admit—the onset of the Cold War. So powerful was the phrase—it cut like a thunderbolt through the public dialogue; so pronounced was the turning point marked by this speech; so wise does it seem, at least in retrospect—that leaders since then return to it and quote it repeatedly to validate their own policies.

Half of the lectures delivered since 1946 in the Westminster series, in which Churchill spoke, have been primarily or partly commentaries on his speech. Presidents, Vice-Presidents, Cabinet officials, Senators, Ambassadors, and one other British Prime Minister have followed in his footsteps.

All this, I suspect, would evoke from Churchill a reaction something like Lincoln's description of the man tarred and feathered—and ridden out of town on a rail: "If it wasn't for the honor of the thing, I'd rather walk." Winston Churchill sought to be memorable—but I am certain that he would rather be remembered for what he actually said and believed, and not have his remarks misused as an all-purpose proof text for the prevailing policies of the hour. He spoke so often and so well over so many years that by taking selected words out of their context, or whole speeches out of the context of their times, virtually anyone who is clever enough can quote Churchill to suit his own purposes.

So what did he really say at Fulton, Missouri—what did he mean—and how does it apply today?

First, as one of the architects of the Grand Alliance, he, in effect, recognized the tragic reality of its dissolution. No one else of similar authority had said what he did so plainly or so publicly before. And this, too, he had foreseen. At the Cairo Conference in 1943, he told Harold MacMillan of his fears about the rise of Soviet power—and the failure of the West to observe and respond to the danger.

Second, he traced the roots of the dawning conflict to Soviet territorial ambitions. As he put it, "What they desire is the fruits of war and the indefinite expansion of their power and doctrines."

Power and doctrine—Winston Churchill had read history and he knew that ideology was not simply or solely the reason for Soviet aggression and subversion; it was, in sinister combination, the rationalization of conquests otherwise coveted. The Soviet Commissars were fulfilling, on a grander scale, the expansionist ambitions of the Russian Czars. This continuing, expansionist impulse was felt in Eastern Europe in the 1940s; it is felt in Afghanistan today.

Third, he urged the West to be firm—in the form of both closer British-American association and a new European unity—from which, he said, "no nation should be outcast." Already again prophetically, he was anticipating the then almost unimaginable reapproachment between France and Germany. Most of all, Churchill gently warned, firmness required American involvement; we cannot afford, he said in politer words than these, a repetition of the catastrophic American retreat from international responsibility after World War I.

He saw the emerging parallel in 1946; in less than a year, the United States Army had shrunk by nearly 90 percent. The boys were coming home—but Churchill was reminding us that now all Europe and the world were our neighborhood.

He was looking toward a system of collective security; he was anticipating NATO by three years, each year marked by recurrent and escalating crisis with the Soviet Union. So he asked the Western powers "to stand together"—and he concluded: "There is nothing [the Russians] admire so much as strength, and there is nothing for which they have less respect than weakness, especially military weakness."

It is at this point, for the most part, that the reading, citation, and interpretation of the Fulton speech all stop. Probably that is because it was Churchill's sounding of the alarm about Soviet misdeeds which drew the most attention and the most controversy at the time. Indeed that aspect of the speech aroused nearly violent protest among many Americans, who once again were hoping that they had finished the war to end all wars. In New York a few days after Fulton, the police had to be called out to protect the former British Prime Minister from hostile demonstrators parading outside the Waldorf-Astoria, where he was staying.

To the extent the "Iron Curtain" speech is seen and cited as a powerful and historic warning against an emerging and ruthless adversary, we can say of this interpretation: so far, so true. We can largely say this, even when, as frequently happens, the interpretation ignores the subtleties of Churchill's argument. But if we stop here, if that is all we see in the speech, then all we are getting is a half-truth.

There are three other points Winston Churchill made at Fulton which apply with equal force today—but which do not seem to be as clearly heard and heeded in the councils of power.

First, the address was a plea for peace, not conflict. It began with the reminder that "our supreme task and duty is to guard the homes of the common people from the horrors and miseries of another war." Churchill viewed that prospect with undisguised apprehension. He spoke of future world conflict, and I quote, "as incomparably more rigorous than what the world had just been through. The Dark Ages may return, the Stone Age may now return on the gleaming wings of science, and what might shower immeasurable material blessings upon mankind may even bring about its total destruction."

Forty years ago, when the West held a temporary nuclear monoply, Churchill was not talking of "winnable" nuclear wars; he was worried about nuclear wars in which the only winner would be death. And to him, even then, the issue was urgent: "Beware I say; time may be short. Do not let us take the course of allowing events to drift along until it is too late."

Second, the former and future Prime Minister insisted that there was a basis on which to deal with the Soviets. He had stated it before, shortly after the outbreak of the war in 1939. In another famous phrase which is also usually only half-quoted, he said: "Russia . . . is a riddle, wrapped in a mystery, inside an enigma; but perhaps there is a key. The key is Russian national interest."

The part about national interest is invariably the part of the speech that is left out. But in 1946, at Fulton, Churchill identified precisely what that interest was: The Soviets might want expansion, but they did not want war. The inevitable truth of that principle, in the atomic age, still eludes foolish and dangerous people on both sides of the Iron Curtain, who assume that on the other side, a first strike is being planned, a nuclear exchange is being actively considered—and therefore, arms control is an impossible dream or an undesirable snare. To them, Churchill replied, forty years in advance: "What we have to consider . . . is the permanent prevention of war." This, he believed, was in the Russian interest as surely as our own.

Third, Winston Churchill was convinced that the West should actively pursue what he called "a good understanding with the Russians . . . There is the solution which I would offer to you. . . ."

He was to expand on this theme again and again. At the Conservative Party Conference in North Wales in 1949, during the most frigid days of the Cold War, he called on the West to take the initiative in opening talks with the Soviets. This time, it was the hawks who assailed him. They and their ide-

ological descendants perfer to edit Fulton, to forget the Party Conference, and to neglect the sweeping proposal of Churchill's second Prime Ministership in 1953.

After Stalin's death in March of that year, the new Soviet regime appeared to Churchill to be signaling, in various ways—for example, in the Austrian treaty negotiations—a new readiness to reduce tensions. He believed there was at least a glimmer of light, a possibility of progress. He told President Eisenhower in a letter: "A new hope has been created in the unhappy, bewildered world." And he suggested that the West make a new approach to Moscow. He wrote in a top secret message: "If we fail to . . . seize this moment's precious chances, the judgment of future ages would be harsh and just."

The moment, unfortunately, remained unseized. John Foster Dulles and some in his own Foreign Office accused Winston Churchill of starting down the road of appeasement. As the recently published diary of his private secretary, Sir John Colville, recounts, it was one of the bitter moments of Churchill's life when Eisenhower rejected the policy of negotiation.

The issue is not whether the policy surely would have worked; many of his friends conceded that at that time it might very well have failed. But Winston Churchill was steadfast in believing that it should be tried. As he said in 1955, in one of his last, great speeches to Parliament, "I have hoped for a long time for a top-level conference where these matters can be put plainly and bluntly"—and he was talking then specifically about the issue of nuclear weapons.

This is the complete Churchill, not the hardliners' conveniently quotable half. He was, I believe, right about the Soviet danger—and the nuclear danger. He was right to warn against appeasement—and equally right to warn against a rigid, all or nothing approach to the Russians. Today his insights, in their full form, still have the freshness of morning, a crispness which has not wilted with the years. But we cannot have his counsel about the Soviets without his counsel about ourselves: the two parts are of a single piece, shaped by a single, subtle mind, the product of a complex and realistic world view.

Across four decades, Winston Churchill's voice and his advice still speak to us and they come down to this: yes, you can deal with the Russians—but only if you have both strength and suppleness, a willingness to stand your essential ground, and yet to see a great common interest which transcends inevitable rivalries, regional conflicts, and petty quarrels.

Now the question is, how have we applied this prescription in the long passage of time since the Fulton speech? Sometimes not at all, sometimes with great uncertainty, and always with great inconsistency.

In his brief years in office, President Kennedy, who took a special pleasure in conferring the first honorary American citizenship on Winston Churchill, became the post-war American leader who seemed to understand best the Churchill formula of toughness and negotiation. One October, he prevailed in the Cuban Missile crisis—a victory which he then used as an opportunity to seek a Test Ban Treaty. By the next July, he had sent Averell Harriman to Moscow to conclude the agreement.

It was in many ways a fitting choice of a negotiator, not least in terms of our topic today: Just after the Fulton speech, Churchill and Harriman met in Washington for a long private talk. Harriman shared Churchill's conclusion, as he reported it in his notes—that he "was very gloomy about coming to any accommodation with Russia unless and until it became clear to the Russians that they would be met by force if they continued their expansion . . . ." Seventeen years later, after the Soviet installation of missiles in Cuba had been met and repulsed, it was Averell Harriman who initiated, for the United States, the first great formal accommodation of the post-war era.

Most of the time, however, we appear to have followed only half the lesson of this history—to stand fast—and not the other half—that the stand should not be a stopping place, but a departure point toward making the world safer for human survival. Each tough stand, once taken, should be another step in the thousand mile journey toward peace.

A number of observers had believed—or hoped—that in his second term, Ronald Reagan could and would move in this direction. He certainly does have the same kind of freedom of action Richard Nixon did when he reopened the door to China: no one could accuse him of being soft. Mr. Reagan surely would not encounter the attacks from the right visited on Gerald Ford when he tried to negotiate SALT-II as the 1976 Republican primaries neared. He certainly would have a far more receptive Senate than Jimmy Carter found when he submitted an arms agreement in 1979.

Just as a certain measure of strength is a precondition for negotiating a treaty with the Soviets, so perhaps a certain measure of perceived toughness is a precondition for securing its approval here at home. Ronald Reagan undoubtedly meets that test. Over and over again, from the beginning of his Administration, he has attacked the Soviets as the "focus of evil in the world" and he has constantly urged larger and larger defense budgets to meet the Soviet threat.

Yet the President and his Secretary of Defense, so intent on demonstrating their resolve, so fond of quoting Churchill, seem increasingly reluctant to take the full measure of Churchill's advice. The Administration talks of arms control; under public pressure, the President speaks of the unwinnability of nuclear war. But our negotiations in Geneva so far resist any compromise on the Star Wars concept, even in return for the most comprehensive strategic arms agreement. When the Russians concede ground on the question of intermediate range missiles in Europe—and agree to a treaty in this area regardless of what happens on Star Wars, the Administration reponds by restating its own previous position.

Winston Churchill had a purpose in his strategy of deploying strength in dealing with the Soviets. He was, as Sir John Colville says, a leader who adopted a "flexibility" which "may have a certain relevance in the 1980's." His aim, as he himself expressed it in the Fulton speech, never wavered. He said, "What is needed is a settlement, and the longer this is delayed, the more difficult it will be and the greater our dangers will become." To Churchill, military strength, divisions, missiles were not an end in themselves; he armed in order to parley.

On the fortieth anniversary of the Fulton speech, in the sixth year of the Reagan Administration, it is fitting and fair to ask of them: What is the aim of their policy? Do they expect—by military intimidation or economic exhaustion—to bring the Soviet system down—something that Churchill, one of the original anti-Bolsheviks, considered foolhardy in the atomic age? If so, do they expect the Soviets to go gently into the twilight of their diminishing power—or abjectly accept an internal collapse?

These are not realistic hopes, but danger fantasies—and we should pray that no one in office really has such irrational views. Perhaps the Administration's stubbornness is a bargaining strategy. But the strategy can be justified only if, at the end of the negotiating process, there is a negotiated agreement.

I would be more encouraged if the President would read the entire Fulton speech and Winston Churchill's other post-war writings. He would discover that the spirit of Winston Churchill was one of both resolution and conciliation; of magnanimity based on strength—and that is the spirit the world urgently needs today.

In short, we should recall that Churchill entitled his Fulton speech "The Sinews of Peace"—not war. And I would like to close with some words which he was composing at nearly the same time he was drafting the speech. He wrote:

"Those who are prone by temperament and character to seek sharp and clear-cut solutions of difficult and obscure problems, who are ready to fight whenever some challenge comes from a foreign Power, have not always been right. On the other hand, those whose inclination is to bow their heads, to seek patiently and faithfully for peaceful compromise, are not always wrong. On the contrary, in the majority of instances they may be right, not only morally but from a practical standpoint. How many wars have been averted by patience and persisting good will! . . . How many wars have been precipitated by firebrands! How many misunderstandings which led to war could have been removed by temporizing! How often have countries fought cruel wars and then after a few years of peace found themselves not only friends but allies!"

These words are from the first volume of Winston Churchill's World War II memoirs, in preparation even as he traveled to Missouri. He called the volume "The Gathering Storm." We would be well advised today to heed his warning, to hear the real Churchill voice and views.

For now we must deal with the potentially even more cataclysmic storm gathering in our own time.●

BALTIC FREEDOM DAY

● Mr. LAUTENBERG. Mr. President, I am a cosponsor of Senate Joint Resolution 271, a resolution to declare June 14, 1986, Baltic Freedom Day, and I wish to express my concern and support for the courageous people of Lithuania, Latvia, and Estonia.

The year 1986 marks the 46th anniversary of Soviet occupation of these countries. In 1940, Joseph Stalin's Red army invaded the borders of the three autonomous nations of Lithuania, Latvia, and Estonia. Each one had its own culture, national identity, and traditions. By invading these clearly independent states, the Soviet Union violated the Helsinki Final Act, an agreement it had voluntarily signed.

Throughout the illegal incorporation into the Soviet Union, the people of Lithuania, Latvia, and Estonia have endured great hardship. Over 600,000

Baltic people have been deported to gulags in Siberia and elsewhere. And the Soviets have stripped these people of a great part of their cultural, religious, and national traditions through their deliberate policy of russification. The Soviet Union has attempted to cut over 5 million people off from their cultural heritage.

But 1986 represents another anniversary as well. It is the fifth consecutive year that the Congress has designated June 14 as Baltic Freedom Day. The United States is known the world over as a protector of liberty. We cherish the right of every person to participate in the activities and traditions of his or her own culture and religion. For this reason, we must show our continued support for those brave individuals who, despite their oppression, still dare to long for freedom.

Mr. President, I urge my colleagues to proclaim June 14, 1986, and every June 14 that follows as Baltic Freedom Day so long as Lithuania, Lativa, and Estonia are not free. We must do so to clearly express our vehement opposition to the capture and occupation of these countries. And, as representatives of a nation that believes in the right of all people to be free, we must communicate our continued recognition of their oppression, and our continued solidarity with their cause.●

AMENDMENTS TO THE HOME AUDIO RECORDING BILL

● Mr. MATHIAS. Mr. President, I would like to share with my Senators the amended and improved version of S. 1739, the home audio recording bill, that the Subcommittee on Patents, Copyrights, and Trademarks recently approved for consideration by the full Judiciary Committee.

I joined with 10 Senators to introduce S. 1739 in an effort to ensure that copyright owners are properly compensated for the unauthorized home taping of their work. Uncompensated home taping is inconsistent with basic copyright principles and undermines the property rights of holders of copyrights in recorded music. The lost income is particularly troubling because it reduces incentives for the investment of time, money and creativity in America's music. In recent years, the proliferation of easy-to-use audio recording equipment—including dual port and high-speed machines—and the concomitant increase in the amount of home taping has exacerbated these problems and sharpened the challenges to our constitutional responsibility to promote the progress of the arts. The vigorous response of the subcommittee to this challenge is thus particularly gratifying.

The amended bill retains the basic framework of the bill initially introduced. The legislation would still amend the Copyright Act to permit individuals to copy music for private use and, in return for that privilege, impose a modest royalty on the tools used to copy copyrighted material.

The most significant improvement that the subcommittee made was to confine that royalty to audio recording equipment. We heard from many Americans—businesses, charitable groups, and individual citizens—who argued that audio recording tape had diverse uses and did not lend itself to the royalty arrangement contained in S. 1739. Their message was, "Don't tax tape." We heard them and heeded them: the amended bill eliminates the royalty on blank tape of every kind.

The other major improvement to the bill provides the Copyright Royalty Tribunal [CRT] with comprehensive instructions that assure that the royalty fees are used to assist developing musical artists and less popular forms of music such as classical and the uniquely American genres of jazz, folk, and gospel.

Specifically, the amendment provides support to the aspiring artists who have not yet completed their training or had that big break by allocating 2 percent of the royalty fund directly to the National Endowment for the Arts.

In addition, the bill maximizes the incentive for further creative activity in the field by setting aside a portion of the collected royalties for the artists who have not yet gained widespread commercial success. It also tells the CRT how to provide all those who participated in creating America's recording music—the composers, lyricists, musicians, vocalists, record companies, and publishers—their fair share of the royalties.

By approving the Home Audio Recording Act, the subcommittee has reaffirmed a basic copyright principle: creative artists deserve compensation when the fruit of their labor is taken without permission. I encourage all of my colleagues to add their names as cosponsors of the bill as amended and to join us in this reaffirmation.

I ask that the text of the bill as amended by the subcommittee, along with a brief summary of its provisions, be printed in the RECORD.

The bill and summary follow:

S. 1739

A bill to amend title 17 of the United States Code with respect to home audio recording and audio recording devices and media, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Home Audio Recording Act."

SEC. 2. (a) Chapter 1 of title 17 of the United States Code is amended by inserting at the end thereof the following new section:

"§ 119. Limitation on liability: Audio recording

"(a) AUDIO RECORDING.—Notwithstanding the provisions of section 106(1), an individual who makes an audio recording of a musical work or a sound recording is exempt from any liability for infringement of copyright if the recording made is for the private use of that individual or members of his or her immediate household: *Provided, however,* That nothing in this section shall exempt from liability a person who, for purposes of direct or indirect commercial advantage, induces, causes or materially contributes to the making of audio recordings by any individual or entity, by any action other than the importation, manufacture, or distribution of audio recording media or the licensed importation, manufacture, or distribution of audio recording devices.

"(b) COMPULSORY LICENSE FOR AUDIO RECORDING DEVICES.—

"(1) AVAILABILITY OF COMPULSORY LICENSE.—Notwithstanding the provisions of section 106(1), the importation into and distribution in the United States, and the manufacture and distribution in the United States, of any audio recording device shall be subject to compulsory licensing if the importer or manufacturer of the device records the notice, and deposits the statement of account and total royalty fees, specified by this paragraph.

"(A) The importer or manufacturer shall, at least one month before the distribution in the United States of any audio recording device or within sixty days after the date this section becomes effective, whichever date is later, record a notice with the Register of Copyrights (hereafter in this section referred to as the 'Register'). Such notice shall include a statement of its identity and address and a description of any trade or business names, trademarks, or like indicia that it uses in connection with the importation, manufacture, or distribution of audio recording devices in the United States. Thereafter, from time to time, the importer or manufacturer shall record such further information as the Register shall prescribe by regulation to carry out the purposes of this paragraph.

"(B) The importer or manufacturer shall deposit with the Register, at such times, for such periods, and in accordance with such requirements as the Register shall prescribe by regulation, a statement of account, covering the pertinent period next preceding, specifying the number of audio recording device imported into or manufactured in the United States during such period, and the number distributed in the United States during such period, together with such other information, and in such form, content and manner, as the Register shall from time to time prescribe by regulation. Such statement shall be accompanied by the total royalty fee specified in subsection (c) of this section for the period covered by the statement, computed in accordance with such regulations as the Register shall from time to time prescribe.

"(2)(A) INFRINGEMENT.—Notwithstanding the provisions of paragraph (1), the importation into and distribution in the United States, or the manufacture and distribution in the United States, of any audio recording device is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, 509, and 511, if the notice, statement of account, or total royalty fee specified by paragraph (1) has not been recorded or deposited, or if the statement of

account or total royalty fee does not materially comply with the requirements of paragraph (1) or any regulations prescribed thereunder.

"(B) Multiple audio recording devices shall not be subject to compulsory licensing under paragraph (1), and the importation into and distribution in the United States, or the manufacture and distribution in the United States of such device shall be actionable as an act of infringement under section 501, and shall be fully subject to the remedies provided by sections 502 through 506, and section 509.

"(3) DEPOSIT OF ROYALTY FEES.—The Register shall receive all fees deposited under this section and, after deducting reasonable administrative costs, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury shall direct. All funds held by such Secretary shall be invested in interest-bearing United States securities for later distribution with interest by the Copyright Royalty Tribunal (hereafter in this section referred to as the 'Tribunal') as provided by this title. The Register shall promptly submit to the Tribunal a compilation of all statements of account covering the pertinent periods provided by paragraph (1).

"(4) ALLOCATION OF ROYALTY FEES.—(A) The Tribunal shall allocate to the National Endowment for the Arts 2 percent of the royalty fees available for distribution pursuant to this subsection. The National Endowment for the Arts shall distribute one-half of such fees to support aspiring lyricists and composers, and the other one-half of such fees to support aspiring vocalists and musicians, either directly or through not-for-profit foundations or similar institutions for the sole purpose of providing such support.

"(B)(i) After deducting its reasonable administrative costs under subparagraph (H) of paragraph (5) of this subsection, the Tribunal shall, in accordance with the procedures specified in paragraph (5) and subject to the requirements of subparagraphs (B) and (E) of paragraph (5), allocate the remainder of the royalty fees available for distribution pursuant to this subsection to the owners of copyrights in musical works and sound recordings based upon the demand within the United States for such works. Such demand shall be calculated by measuring the number of times musical works and sound recordings were included in radio transmissions originating in the United States, and the number of phonorecords of such works distributed to the public in the United States, during the period to which such fees pertain, as adjusted by the extent to which such radio transmissions or phonorecord distributions resulted in the making of audio recordings of musical works or sound recordings by individuals for private use.

"(ii) In calculating the demand within the United States for each musical work and each sound recording for which a claim has been duly filed pursuant to subparagraph (A) of paragraph (5) of this subsection, the Tribunal shall develop a formula that will: (I) adjust the number of publicly distributed phonorecords of each sound recording to reflect the price category at which they were so distributed; and (II) adjust the number of times each musical work and sound recording was included in a radio transmission to reflect the size of the listening audience.

"(5) DISTRIBUTION OF ROYALTY FEES.—The royalty fees available for distribution pursuant to subparagraph (B) of paragraph (4) shall be distributed in accordance with the following procedures:

"(A) During the 30-day period specified by the Tribunal for each year after the year in which this section becomes effective, every copyright owner claiming to be entitled to compulsory licensing fees under subparagraph (B) of paragraph (4), or his or her agent, shall file a claim with the Tribunal for fees covered by all statements of account for periods during the preceding year. Such claim shall specify the fund against which it is filed (the Sound Recording Fund under subparagraph (C) or the Musical Work Fund under subparagraph (D)), and shall be in accordance with requirements that the Tribunal shall prescribe by regulation. Notwithstanding any provision of the antitrust laws, for purposes of this subparagraph any claimants may agree to the proportionate division of compulsory licensing fees amongst them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

"(B) Of the funds available for distribution under subparagraph (B) of paragraph (4), the Tribunal shall allocate: (i) 75 percent to the Sound Recording Fund; (ii) 23 percent to the Musical Work Fund; and (iii) 2 percent to the Musician and Vocalist Fund.

"(C) The Tribunal shall, within one year following the conclusion of the 30-day period referred to in subparagraph (A), issue an order providing for the distribution of the funds contained in the Sound Recording Fund, as follows:

"(i) Eighty percent of the Sound Recording Fund shall be distributed to the Sound Recording Fund claimants under subparagraph (A) in direct proportion to the demand within the United States for the sound recordings with respect to which their claims were filed.

"(ii) Incentive Class claimants shall be eligible to share in the remaining 20 percent of the Sound Recording Fund. The Incentive Class shall consist of that 30 percent of the sound recordings for which the smallest distributions were allocated under clause (i). The Tribunal shall specify in its order a formula which takes into account demand within the United States and which permits the allocation to the greatest number of sound recordings in the Incentive Class of the remaining 20 percent of the Sound Recording Fund without permitting any sound recording within the Incentive Class to yield a cumulative distribution from the Sound Recording Fund in excess of the amount yielded by a sound recording for which funds were allocated only pursuant to clause (i).

"(iii) The Tribunal shall order each claimant to allocate from the funds received under this subparagraph for each sound recording 60 percent to the recording company and a total of 40 percent to the recording artist or artists featured on such sound recording. The allocation made by the order shall supercede any provision of a contract between the recording company and the featured recording artist or artists that purports to require or permit a different allocation of funds received under this subparagraph.

"(D) The Tribunal shall, within one year following the conclusion of the 30-day period referred to in subparagraph (A), issue an order providing for the distribution of funds contained in the Musical Work Fund, as follows:

"(i) Eighty percent of the Musical Work Fund shall be distributed to the Musical Work Fund claimants under subparagraph (A) of paragraph (5) in direct proportion to the demand within the United States for the musical works with respect to which their claims were filed.

"(ii) Incentive Class claimants shall be eligible to share in the remaining 20 percent of the Musical Work Fund. The Incentive Class shall consist of that 30 percent of the musical works for which the smallest distributions were allocated under clause (i). The Tribunal shall specify in its order a formula which takes into account demand within the United States and which enables the greatest number of Incentive Class claimants to share in the remaining 20 percent of the Musical Work Fund without permitting any musical work within the Incentive Class to yield a cumulative distribution from the Musical Work Fund in excess of the amount yielded by a musical work for which funds were allocated only pursuant to clause (i).

"(iii) The Tribunal shall order each claimant to allocate from the funds received under this subparagraph for each musical work, 50 percent to the music publisher and a total of 50 percent to the composer or composers and lyricist or lyricists of such musical work. The allocation made by the order shall supercede any provision of a contract between the music publisher and the composer or composers or lyricist or lyricists that purports to require or permit a different allocation of funds received under this subparagraph.

"(E) The Tribunal shall, within one year following the conclusion of the 30-day period referred to in subparagraph (A), issue an order providing for the distribution of the funds contained in the Musician and Vocalist Fund. The Tribunal shall allocate 12.5 percent of such funds to the American Federation of Television and Radio Artists, and the remaining 87.5 percent of the funds to the American Federation of Musicians. the Tribunal shall reduce such allocations to the extent necessary to reflect the demand within the United States (as a portion of total demand) for sound recordings made by musicians and vocalists not represented by the American Federation of Television and Radio Artists or the American Federation of Musicians, and shall direct an appropriate disposition of the remaining funds after the deduction of such allocations The Tribunal shall order organizations receiving funds from the Musician and Vocalist Fund to allocate such funds for the benefit of musicians and vocalists performing on sound recordings distributed in the United States, or for the advancement of instrumental or vocal musical performances in the United States.

"(F) If the Tribunal determines that it is appropriate, the Tribunal may appoint representative claimants, or their agents or designees, to assist the Tribunal in fulfilling any of the responsibilities described in this section. The Tribunal shall not, however, delegate any of its authority provided in this section, and any decision made by any such representative claimants, agents, or designees shall be subject to review and approval by the Tribunal.

"(G) After the first day of the month following the period established for the filing of claims under subparagraph (A), in each year after the year in which this section becomes effective, the Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Tribunal determines that a controversy exists, the Tribunal shall, pursuant to chapter 8 of this title, conduct a proceeding

to determine the distribution of royalty fees in accordance with this subsection. During the pendency of any proceeding under this subsection, the Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have the discretion to proceed to distribute any amounts that are not in controversy.

"(H) The Tribunal shall deduct from the funds available for distribution under paragraph (4)(B) the reasonable costs necessary to calculate the demand within the United States for each musical work and each sound recording for which a claim has been filed pursuant to subparagraph (A), and any other reasonable costs incurred by the Tribunal to fulfill its responsibilities as described in this section.

"(c) ROYALTY FEES.—

"(1)(A) AUDIO RECORDING DEVICES.—The royalty fee payable under subsection (b) for each audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be five per centum of the price charged for the first domestic sale of such device.

"(B) DUAL AUDIO RECORDING DEVICES.—The royalty fee payable under subsection (b) for each dual audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be twenty-five per centum of the price charged for the first domestic sale of such device.

"(C) EXEMPTIONS.—The Tribunal shall by regulation exempt from royalty fees particular kinds of audio recording devices, if any, that the Tribunal finds, on the basis of technical criteria that are relevant to the purposes of this section, are unsuitable for making audio recordings by individuals for private use.

"(D) NONINFRINGING USES.—The Tribunal shall by regulation establish a procedure under which audio recording devices purchased and used only under the circumstances specified in this paragraph shall not be subject to payment of any of the royalty fees otherwise payable under subsection (b). Pursuant to this paragraph the Tribunal shall exempt from royalty fees audio recording devices that—

"(1) are purchased under circumstances where any part of the purchase price is deductible by the purchaser either as an ordinary and necessary business expense under section 162 of the Internal Revenue Code of 1954 or as an allowance for depreciation under section 167 of such Code, or, in the case of purchases by a nonprofit organization, would be so deductible if either section was applicable; and

"(ii) will not be used for making audio recordings by individuals for private use or for other infringing purposes in violation of this title.

"(2)(A) ADJUSTMENT OF ROYALTY FEES.—The fees specified in paragraph (1) shall be subject to adjustment by the Tribunal in the fifth calendar year after the date this section becomes effective, and in each subsequent fifth calendar year, in accordance with the petition procedure described in section 804(a)(2) of this title and regulations that the Tribunal shall prescribe. Notwithstanding the provisions of section 809 of this title, any final determination by the Tribunal in the first and any subsequent adjustment proceeding under this paragraph shall become effective thirty days following its publication in the Federal Register.

"(B) In determining royalty fees under this paragraph, the Tribunal shall consider, in addition to all other relevant factors, the following criteria:

"(i) the value to an individual of the right to reproduce copyrighted works pursuant to subsection (a) of this section;

"(ii) the compensation that would have been received by copyright owners from distribution in the United States of phonorecords of their sound recordings and musical works but for private audio recording of such works;

"(iii) the projected impact of royalty fees on consumers and the benefits derived by consumers from the use and availability of audio recording devices;

"(iv) the benefits derived by importers and manufacturers of audio recording devices from the distribution in the United States of those products;

"(v) the projected impact of private audio recording on copyright owners;

"(vi) the projected effect of royalty fees on the structure and financial condition of the audio recording device importing and manufacturing industries;

"(vii) the relative roles of copyright owners and importers and manufacturers of audio recording devices with respect to creative and technological contribution to the development of sound recordings and musical works;

"(viii) the objective of maximizing the creation of new sound recordings and musical works;

"(ix) reasonable estimates of the number of audio recording devices used in the United States during a relevant period for purposes other than making audio recordings by individuals for private use if such purposes are lawful under this title; and

"(x) new technologies for making audio recordings by individuals for private use.

"(C) Any determination by the Tribunal under this paragraph may distinguish among different kinds of audio recording devices, and may establish different royalty fees for different kinds of audio recording devices.

"(d) DEFINITIONS.—As used in this section, the following terms and their variant forms means the following:

"(1) An 'audio recording' is a phonorecord of a musical work or sound recording that has been reproduced directly from a radio transmission or from a phonorecord that has been lawfully made and distributed to the public.

"(2) An 'audio recording device' is any machine or device, now known or later developed, which can be used for making audio recordings by individuals for private use, and which is capable of reproducing the sounds embodied in a radio transmission, or in a phonorecord, by means of internal or external wire, cable or like connection between the equipment receiving or performing such sounds and the equipment reproducing them. The term 'audio recording device' includes dual audio recording devices. Such term does not include a device (A) which can be used by individuals for reproducing the visual images of an audiovisual work for private use; (B) which is unable to receive the sounds embodies in a radio transmission, or in a phonorecord, except by microphone; (C) which is capable only of performing such sounds, such as playback only equipment; or (D) which incorporates a decoder or similar mechanism that prevents the device from reproducing, or permits the device to reproduce, the sounds embodies in a phonorecord in accordance with special instructions encoded in the phonorecord for that purpose.

"(3) An 'audio recording medium' is any material object, now known or later developed, in any form commonly distributed for use by individuals (such as analog or digital tape cassettes, cartridges or reels), in which a musical work or sound recording can be fixed by use of an audio recording device.

"(4) A 'dual audio recording device' is any machine or device, now known or later developed, intended for use in private homes, which can be used for making audio recordings by individuals for private use, which is capable of reproducing the sounds embodied in a phonorecord by copying such sounds from a phonorecord in any digital or any tape format to an audio recording medium in any digital or any tape format, and which contains in a single apparatus one cavity for the insertion of a phonorecord in any such format and one cavity for the insertion of an audio recording medium in any such format.

"(5) The 'first domestic sale' of an audio recording device is the first sale of such device in the United States to an unrelated party. For purposes of this paragraph, an unrelated party is a person who is not controlling, controlled by, or under common control with the seller, and who is not acting in concert with the seller in order to avoid or lessen the obligations of subsection (b). Control will be deemed to exist if there is a fifty per centum or greater direct or indirect ownership interest between the seller and such other person.

"(6) A 'multiple audio recording device' is any machine or device, now known or later developed, intended for use in private homes, which can be used for making audio recordings by individuals for private use, which is capable of reproducing the sounds embodied in a phonorecord by coypright such sounds from a phonorecord in any digital or any tape format to an audio recording medium in any digital or any tape format, and which contains in a single apparatus one or more cavities for the insertion of a phonorecord in any such format and two or more cavities for the insertion of an audio recording medium in any such format.

"(7) A 'radio transmission' is a transmission of sounds without accompanying visual images by a broadcast station, cable system, multipoint distribution service, subscription service, direct broadcast satellite, or other means of transmission that is intended for reception in private homes.".

(b) The table of sections for chapter 1 of title 17, United States Code, is amended by adding at the end thereof the following new item:

"119. Limitation on liability: Audio recording.".

SEC. 3. (a) Chapter 5 of title 17 of the United States Code is amended by inserting at the end thereof the following new section:

"§ 511. Additional remedy for infringing importation or manufacture, and distribution of audio recording devices

"In any action filed pursuant to section 119(b)(2), the court may order that, in addition to any other remedies provided by this title, for a period not to exceed ninety days, the importer or manufacturer shall be deprived of the benefit of a compulsory license under section 119(b)(1). In the absence of such license by reason of such order, any importation into and distribution in the United States, or any manufacture and distribution in the United States, of audio recording devices by such party is actionable as an act of infringement under section 501,

and is fully subject to the remedies provided by sections 502 through 506, 509, and this section.".

(b) The table of sections for chapter 5 of title 17, United States Code, is amended by adding at the end thereof the following new item:

"511. Additional remedy for infringing importation or manufacture, and distribution of audio recording devices.".

SEC. 4. Chapter 8 of title 17 of the United States Code is amended as follows:

(1) Section 801(b)(1) is amended by striking out "and 116," in the first sentence, and inserting in lieu thereof ", 116 and 119,".

(2) Section 801(b)(3) is amended by striking out "and 116," and inserting in lieu thereof ", 116 and 119,".

(3) Section 804(d) is amended by striking out "or 116," and inserting in lieu thereof ", 116 or 119,".

(4) The second sentence of section 809 is amended by striking out "or 116," and inserting in lieu thereof ", 116 or 119,".

SEC. 5. SUPPLEMENTARY AND TRANSITIONAL PROVISIONS.—(a) This Act, and the amendments made by this Act, shall become effective on July 1, 1987.

(b) Section 501(a) of title 17 is amended by striking out "118" and inserting in lieu thereof "119".

Amend the title to read as follows: "A bill to amend title 17 of the United States Code with respect to home audio recording and audio recording devices, and for other purposes.".

SUMMARY OF PROVISIONS OF THE HOME AUDIO RECORDING ACT (S. 1739) (AS AMENDED MAY 21, 1986, BY SUBCOMMITTEE ON PATENTS, COPYRIGHTS AND TRADEMARKS)

S. 1739 would amend the Copyright Act to allow individuals to tape music for private use from records, compact discs, and prerecorded tapes, or from the airwaves, without first securing the permission of the copyright holder. In exchange for that privilege, the bill would impose a modest royalty on the equipment used to copy copyrighted music. It also provides for the distribution of the royalty fees to copyright owners, with a special emphasis on encouraging newer artists and less commercially established genres.

As amended by the Subcommittee on Patents, Copyrights, and Trademarks, the royalty is applicable only to audio recording equipment. It does not apply to any type of blank tape, nor to:

(1) Equipment used for home video recording (e.g., VCRs);

(2) Audio equipment which can record only by microphone (e.g., dictation equipment);

(3) Playback-only equipment (e.g., many "personal stereos");

(4) Recorders equipped with copy-code technology to prevent unauthorized copying;

(5) Equipment purchased for use in a trade or business, or comparable nonprofit organization.

For those tape recorders not falling within one of the exemptions, the royalty rate would be: 5 percent of the wholesale price for "dual-port" equipment, which allow direct copying—including high-speed dubbing—of prerecorded tapes.

The bill would also prohibit the sale of "multiple-port" equipment, capable of making more than one copy of prerecorded tapes simultaneously.

The royalty fees would be collected by the Copyright Office, and distributed by the Copyright Royalty Tribunal (CRT), an existing agency in the legislative branch of government with similar responsibilities in the field of cable television and jukeboxes. While the original text of S. 1739 contained general instructions to the CRT for developing a distribution formula, the amendment adopted by the subcommittee substitutes a specific formula that insures that all the participants in the music recording process share in the royalties, and that maximizes the incentive for further creative activity in the music field.

In summary, the distribution formula adopted by the subcommittee allocates 2 percent of the royalty fund to the National Endowment for the Arts, for the support of aspiring musical artists.

The remainder of the fund is to be distributed in proportion to the sales and radio airplay of copyrighted musical recordings, with certain adjustments that weight the distribution in favor of recordings in the lower 30 percent of the sales and airplay charts. The amendment also specifies a royalty allocation applicable to each recording that divides the royalty among the copyright holders in the sound recording (45 percent), the featured recording artist (30 percent), the composer/lyricist (11.5 percent) and publisher (11.5 percent) of the copyrighted musical work, and the unions representing back-up musicians and vocalists (2 percent). This allocation is somewhat more generous to composers, publishers and musicians than the division of existing copyright royalties found in most music industry contracts.

The royalty fees established by S. 1739 would remain constant for five years, after which the CRT could adjust them in accordance with specified criteria. If enacted, the Home Audio Recording Act would take effect July 1, 1987.●

THE RELEASE OF RICARDO DUQUE

● Mr. CHILES. Mr. President, we began this week with the news Fidel Castro had released Cuban political prisoner Col. Ricardo Montero Duque. This decision is a welcome one. However, none of us should think this is the result of a new found compassion or sense of justice on the part of Fidel Castro. The decision to grant Montero freedom is the result of efforts undertaken by the Senator from Massachusetts [Mr. KENNEDY]. The Senator is to be commended for this effort.

Cuba continues as one of the worst violaters of human rights. A few prisoner releases do not erase its long record of abuse. Montero's release serves to remind us of the freedom of which he was deprived for so long and the freedom denied to those languishing in Castro's jails.

Colonel Montero himself reminded us that whenever Castro releases political prisoners, he keeps others behind and then continues to imprison more prisoners. This comes from a man who knows first hand the harshness of Cuban justice; cruel and long prison terms, torture, isolation, physical and mental abuse. All are tragically commonplace for Cuba's political prisoners. One of those he refers to as being left behind is fellow 2506 Brigade member Ramon Conte Hernandez. Both Montero and Conte were captured by Cuban forces during the Bay of Pigs liberation effort. Their long imprisonment offers but a glimpse of the hardship encountered by Cuba's political prisoners.

Montero was imprisoned for 25 long and hard years. For Conte, the suffering continues. He remains the sole remaining prisoner captured during the Bay of Pigs. The release of Montero should revitalize efforts to free Conte and the other political prisoners remaining in Cuba.

Mr. President, I recently visited "La Casa de la Brigada," the headquarters of the Brigade 2506 veterans. I was given a tour of the Brigade Home by its presiding president, Juan Perez Franco. One of the lasting impressions I have of my visit to the Brigade Home is of a wall covered with the pictures of the fallen members of the Brigade. They were the faces of young men eager for the return of liberty to their beloved homeland. They were pictures of patriots willing to die in the struggle for democracy.

The Brigade members I met that evening held the highest respect for these fallen heroes. I know they are equally as proud to be welcoming back a hero who survived the ordeal. Montero's life has been dedicated to the struggle against the totalitarian Cuban Government of Fidel Castro. I know the Brigade members rejoice for his freedom but they will not forget those who remain. We must never forget those who remain in Cuba's prisons.

Mr. President, I ask that a copy of a Miami Herald editorial be inserted in the RECORD.

The editorial follows:

CASTRO'S GULAG

Ricardo Montero Duque's 25-year ordeal ended on Sunday, but it should have ended in December 1962. That's when the U.S. Government paid $53 million in food and medicine to Cuba as ransom for the defeated Bay of Pigs invasion force. Cuba released all but nine of the 1,189 captured invaders then.

These nine men were kept in Cuban prisons for 18 years or longer. Six of them were released between 1979 and 1984. Mr. Montero Duque, a commander of Brigade 2506's Fifth Battalion, is the seventh freed. An eighth died in prison.

Now only one, Ramon Conte Hernandez, remains in jail. His and Mr. Montero Duque's prolonged incarceration is tangible evidence that Americas Watch, a New York-based human-rights organization, is correct when it says that "there are more long-term political prisoners in Cuba than anywhere else in the world."

Mr. Montero Duque would still be in jail were it not for the efforts of Sen. Edward Kennedy, whose intercession came at the urging of Miami banker Raul Masvidal.

Both men deserve this community's appreciation for their efforts.

It's imperative, however, to renew efforts to free Mr. Conte Hernandez and the hundreds of political prisoners who remain in Fidel Castro's dreary prisons. Some were imprisoned relatively recently, but others have been in jail for decades. Tragically, Mr. Montero Duque is quite right when he says that whenever Mr. Castro releases a number of political prisoners, he always keeps a small group behind—"and then he makes some more [prisoners]."

This is a propitious moment for the State Department to remind Cuban officials that civilized countries the world over are appalled at Cuba's total disregard for human rights. Senator Kennedy and other individuals who have contracts with Cuba's government should stress the same point. A concerted effort will be needed to persuade Mr. Castro to release all of his political prisoners.

Nor should the intercession efforts end there. It's imperative that the Administration do as Gregory Craig, Senator Kennedy's foreign-policy adviser, did in his recent talks with Cuban officials: Reiterate the urgent need for Cuba to restore the immigration and refugee agreement that it suspended in May 1985.●

THE SENATE PAGE BANQUET

Mr. DOLE. Mr. President, on Wednesday evening, June 11, several of my Senate colleagues and I participated in a special tribute to the Senate pages. At the annual Senate page "end-of-the-year banquet," we had the opportunity to express our appreciation to 54 of the Nation's finest young men and women.

Each and every one of our Senate pages have devoted countless hours, unlimited energy, and unabashed enthusiasm to the U.S. Senate. I know I speak for all Senators when I say thank you. Our pages are a credit to this great country and are a symbol of democracy in action. We are all proud to have worked with them, and it is an inspiration to every Member of the Senate to know that these bright, energetic individuals will be tomorrow's movers and shakers.

Mr. President, I ask that the text of the speeches of the distinguished minority leader, Senator BYRD from West Virginia; the distinguished Senator from South Dakota, Senator ABDNOR; and the Senator from Kansas be inserted in the RECORD.

I also want to point out that the distinguished pro tempore of the Senate, Senator THURMOND, was a featured speaker at the banquet and delivered a stirring, off-the-cuff message on freedom and the American way. Senator THURMOND urged the pages to use their unique experiences on Capitol Hill to move ahead into the future as active participants in government and society.

Our distinguished colleague from Delaware, Senator BIDEN, also addressed the group, stressing the need for tolerance in all walks of life: At home, at work, and at play. He noted that our Nation is comprised of many different kinds of people, some with radically different ideologies, and encouraged the pages to enter every situation with an open mind and an open heart.

And Mr. President, our distinguished colleague from North Carolina, a man who is "grandfather" in the eyes of the pages, Senator HELMS, underscored the importance of the pages' "unoffical" role—that of a friend. In his remarks, he thanked the pages for their ever-present smiles, laughter, and cheer, which provided encouragement and made the long hours in the Senate a little bit easier to bear.

There being no objection, the speeches were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATE MAJORITY LEADER BOB DOLE

First, let me thank all of you for inviting me to your wonderful banquet. I speak to many groups during the course of the year, but this invitation is a special honor because it comes from my fellow workers on Capitol Hill.

Believe me, the Senate recognizes, and fully appreciates, the substantial contributions you pages make to our daily activities in Washington. So let me say "thank you" for all of your hard work; for the long hours; for putting up with menial tasks; and for tolerating 100 Senators. Your selfless dedication is much appreciated. But that's not to say your efforts are unrecognized.

You see, television viewers now have the opportunity to watch the Senate in action. And that means millions of Americans are watching Senate pages: They see you running back and forth with papers and messages; carrying lecterns and water glasses; and having fingers snapped at you. Our viewers are probably wondering how you put up with us. But, seriously, I am pleased that the American people are now learning the special role you play in the life of the Senate.

History tells us that pages date back as far as the snuff boxes and spittoons in the Chamber. Together, the Senate and its pages have come a long way.

You are the successors of Grafton Hanson, a 9-year-old who was appointed to be the first Senate page by Daniel Webster and Henry Clay, back in 1827. Hanson—and other pages in the 19th century—were expected to keep filled the ink wells and the sand shakers for blotting ink; and they had to light the gas lamps, and keep the wood stoves burning. When messages needed to be delivered downtown to the executive departments, pages were sent off on horseback! And once a week, all pages were handed tickets to go down to the Capitol basement and bathe in the large marble tubs. Come to think of it, running a Xerox machine doesn't seem all that rough—does it?

Well, a few things have changed since then. But we still depend on our pages. The U.S. Capitol has served as a unique learning institution for hundreds of young men—and an increasing number of young women—during the past 200 years. Working in the Capitol, you have had the unique opportunity to see your Government up close and personal. You didn't have to read a textbook; you were eyewitnesses, maybe even to history!

That's why I'm not surprised that some pages have returned to Congress as elected Members of the Senate and House, or as senior staff members. As far as I'm concerned, there can be no better endorsement of the page program than those facts. I am certain your experience has enhanced your appreciation for our representative democracy, and that as you leave Washington, you will do so not only better informed about your Government, but more committed to becoming an active participant in it—whatever career you pursue. I trust this has been an experience never to be forgotten, and one about which you will never tire of telling.

Personally, I want to thank each and every one of you for your diligence, your tireless energy, and your enthusiasm. And I wish you the very best of luck in all future endeavors. You are fine young men and women, who have given your best—and deserve the best.

REMARKS OF SENATOR ROBERT C. BYRD

In April 1912, the great ocean liner *Titanic* struck an iceberg and sank off Newfoundland. Over fifteen hundred people lost their lives in that disaster.

In hindsight, experts say that the *Titanic* tragedy did not have to happen—that all of those fifteen hundred people did not have to lose their lives.

The main problem was not an iceberg, but that too many people took too much for granted.

The *Titanic*'s builders took for granted that their ship was too well built to sink.

The *Titanic*'s officers took for granted that April was too late for icebergs to be so far south.

And the *Titanic*'s owners took for granted that their ship was so safe that they did not need lifeboats for everybody aboard.

Taking things for granted can sometimes be dangerous.

Nobody here tonight was around when the *Titanic* sank. But many of us here were born before the space age. Fifty years ago, radio was still a novelty. America had few four-lane highways. For most Americans, automobiles, and telephones were still luxuries. And the idea of traveling to the Moon or to Mars was best left for Flash Gordon serials at Saturday movie matinees.

Most of us who are older do not take for granted most of the technical marvels of this age—television, computers, super highways, space rockets, and such. We remember when we did not have those conveniences.

Many of us also remember when America was threatened from both the Atlantic and Pacific Oceans by powerful aggressor nations—Nazi Germany and Imperial Japan. We remember Americans going off to war, rationing, air-raid drills, and worrying if our country could defeat the foreign dictatorships arrayed against us.

Many of us also remember a time when only a few went on to college after high school, when as much as twenty-five percent of America's workforce was unemployed, and when polio scourged whole communities every summer.

Just as we do not take so much for granted many modern inventions and technological advances, then, we do not take for granted America's security, the need to keep improving our country, or the possibility that Americans might not enjoy the standard of living that we do today if we lose the competitive edge that made our country great.

Most of the young men and women in this room were born less than twenty years ago. You were born into the space age. You were born into the television and computer ages. You could not be blamed, particularly, if you were to take many of today's conveniences for granted.

But statistics show that those who serve as pages on Capitol Hill are a select group. Often, because of their experience here, former pages go on to become leaders in their own right—Senators and Congressmen, even. Others become leaders in many other fields.

I want to express to you my appreciation for your service to us as Senate pages. And I want to wish each of you every success in whatever fields into which you go in the years ahead.

But as the years go by and as you rise to positions of responsibility, I hope that you will not take for granted our country or our country's institutions.

As you have followed Senate elections, and as you have followed Senate debates, you may have taken those events for granted. But hundreds of thousands of men and women over countless centuries suffered and sacrificed to make our freedoms possible. Many of the men who signed the Declaration of Independence lost every earthly possession that they owned. Even while the dome of the U.S. Capitol Building was being raised, multitudes of Americans, north and south, were dying on battlefields not too far from here.

Every generation has its challenges to meet. My prayer for you is that the inspiration that you have found here in the Senate will help each of you to meet the challenges that your generation will face, that you will not take your privileges as Americans for granted, and that you will live up to the promise and the leadership abilities that you have shown as pages.

And because of your experiences here, I hope that you will be able better to meet those challenges with a positive attitude, looking for opportunities to make our country stronger and more prosperous, ever turning aside from counsels of discouragement and defeat.

I saw them tearing a building down
A group of men in a busy town
With a "ho, heave, ho" and a lusty yell
They swung a beam and the sidewall fell.

I said to the foreman, "are these men skilled?
The type you would hire if you had to build?"

He laughed, and then he said, "no indeed,
Just common labor is all I need;
I can easily wreck in a day or two,
That which takes builders years to do."

I said to myself as I walked away,
"Which of these roles am I trying to play?
Am I a builder who works with care,
Building my life by the rule and square?
Am I shaping my deeds by a well-laid plan,
Patiently building the best I can?
Or am I a worker who walks the town
Content with the labor of tearing down?"

REMARKS OF SENATOR ABDNOR

So far this evening you have heard how responsible, diligent, and conscientious the pages are. Well, this may be true most of the time, but not always. I'd like to set the story straight with a few stories of my own.

For instance, occasionally while on the Senate floor or in the cloakroom, I will ask the pages how they enjoy working on the Hill or perhaps what they saw sight-seeing the past weekend. On several occasions the pages remarked to me what a wonderful Sunday brunch they had at Hulihan's, a restaurant in Georgetown. Additionally, they told me what a great deal this brunch was. Well, after hearing these same comments a number of times, I began wondering what I was missing.

This being the case, I decided I would have brunch there the next weekend I spent in the city. After arriving at the restaurant and getting a table, I started searching the menu for "this great deal." After a couple of minutes of looking without finding anything that looked especially cheap, I decided to ask the waiter what this special was I had heard so much about. He replied, "Oh, that's the champagne brunch—all you can drink for 99 cents."

Of course I'm sure that Bret Berlin's friends back in Florida will be speechless when he tells them how he lounged the largest bubble bath on Capitol Hill when he put detergent in the beautiful Longworth Fountain. And certainly envious when he tells how he got Lori Olson and Rita Nething to join him in it.

Probably, if it weren't for tonight, Chad Moore, Mark Fox, and Martin Heinze would be telling their friends how after curfew they used to deactivate the alarm on the security door between the 3rd and 4th floor so they could run up to see the girls.

I'm sure as the years pass, these stories will get better and better as will the story about how Mary Magner and Debbie Pops acquired their nicknames, Air and Space, on a field trip when they were left behind by the bus at Bob's Big Boy because they were in the bathroom.

It seemed that by the end of the term most of the interns had acquired nicknames. I understand they call John Brost the "Beast," but no one will tell me why. Speaking of John, I got an interesting letter from Mrs. Corley Bowman, John's chemistry teacher. It seems that John received a deficiency report because of an unexcused absence. Well, this didn't seem like John so I asked him to come to see me. I expected that John would have some legitimate excuse and we could get this whole thing straightened out. When I asked John where he was he replied, "The beach."

Finally, I have one last story to tell about John. I had eight beautiful Omaha steaks that I was saving for a very special occasion. Well, you can imagine my surprise when I open my freezer to find—not just one or two missing—but all of them gone. Next, I went to the drawer to get a fork and there were none there. Looking to see where all my utensils had disappeared to, I open the dishwasher to find it jam-packed with just about all my pots and pans. As you can imagine that I wasn't amused. I have a young staffer who keeps an eye on my place while I'm out of town who I was getting ready to send to the unemployment line unless he had a good reason for this whole thing. Well, he finally confessed that he was at the beach that weekend and had lent his keys to none other than John Brost with the understanding that John was only to use my place as somewhere to go after the prom for just a short time before curfew.

Seriously though, I think you're all a great bunch of kids. Some of us tend to forget that you are just high school kids—and most of you would want us to forget it.

Thanks for the great work you do for all of us. And, may this experience you have had here on Capitol Hill help you stay interested in government the rest of your lives.

50TH WEDDING ANNIVERSARY OF MORMIE AND DELORIS O'DELL

Mr. BYRD. Mr. President, I call to the attention of my colleagues the 50th wedding anniversary of Mormie and Deloris O'Dell of Mt. Nebo, Nicholas County, WV.

The O'Dells were married on June 17, 1936 in Nicholas County, WV. Mormie is a retired miner from the Westmoreland Mine No. 2 and is a past master Mason. Deloris is a member of the Eastern Star. Mr. and Mrs. O'Dell are members of the Spruce Grove Methodist Church. They are the parents of Shirley Spencer O'Dell and Edria Shanon Young and the grandparents of Pam, Michael, Beth, Susan, and Jeanne.

Mr. President, I congratulate them and their family and friends and wish them many more years of happiness.

THE MARS PROJECT: JOURNEYS BEYOND THE COLD WAR

Mr. SIMON. Mr. President, I am pleased to congratulate my good friend and distinguished colleague from Hawaii, Senator MATSUNAGA, on the recent publication of his book, "The Mars Project: Journeys Beyond the Cold War." It is an important and timely book, and one that I know will benefit all of us concerned about our Space Program and our national security.

Sometimes we do not see the obvious because it makes too much sense. Senator MATSUNAGA makes great sense out of what should be a simple proposition but which is too often obscured by cold war politics: we simply have to cooperate with all space-faring nations to build a more secure future on the final frontier. Instead of racing against each other—the Moon race, the space station race, and now the space weapons race—we will all be better off with international space cooperation.

The American and Soviet space programs each have their own strengths, and we ought to complement instead of duplicate each other's efforts. Despite our best efforts to outbuild each other in new weapons of destruction, we still manage to find it within our better selves to cooperate with one another to save lives, as in the United States-Soviet-Canadian-French search and rescue satellite system for ships and planes in distress. Over 200 lives have been saved in this remarkable program, most through the Soviet satellite.

We have periodically cooperated together in space, most spectacularly in the 1975 Apollo-Soyuz link-up. There is a whole universe to explore out there, beginning with Mars and our other neighbors in the solar system. We need to sit down with the major

space powers and define a common agenda. We ought to pioneer the new worlds in concert with each other, and pool our financial and scientific resources for the benefit of all humanity. Senator MATSUNAGA's book is a testament to this simple but powerful idea. It is an idea that we all should keep in mind whenever we think about defense, space, and arms control. I highly commend "The Mars Project" to my colleagues.

I think the big lesson from the book is the need for space cooperation. A go-it-alone attitude on the part of the United States or the Soviet Union or any other country simply is not realistic for the year 1986 and beyond.

One of the other points that I think is important is that we have this satellite that the United States, the Soviet Union, the French, and the Canadians cooperated on, which lets us know if a ship is in dire straits out in the water, and we can cooperate to see that that ship is rescued. That is the kind of satellite cooperation, the use of space jointly, that we should have much more of.

If we can work together on that kind of thing more and more, we are going to find that we will start moving in a more sensible and rational direction.

Why do we pile up all these weapons? Because we fear each other. Why do we fear each other? In large measure, because we do not understand each other. The more we work together, whether it is space or whatever, the more we will find that we understand each other. It does not mean that we are going to like the Soviet system or they are going to like our system. But let us not blow up this world.

I think that is one of the important messages of the book by our colleague. I commend him for taking the leadership in this matter. Not only is this body and the other body better informed because of that book, but also, it is the kind of book which is well written, and I think the American people will appreciate it, too. I appreciate what our colleague has done.

□ 1640

Mr. MATSUNAGA. Mr. President, I wish to thank the Senator from Illinois [Mr. SIMON] for his most generous remarks and especially for taking the time to read my book, "The Mars Project, Journeys Beyond the Cold War."

To have the Senator not only read my book but to come and voluntarily hear talk in praise of my book is more than friendship. I truly appreciate the Senator's remarks.

Mr. SIMON. I thank the Senator from Hawaii.

I had the privilege of serving with him in the House in addition now to serving with him in the Senate. He preceded me in the House, he preceded me in the Senate, and he is preceding most of us in understanding what we ought to be doing in space.

I commend him.

Mr. PELL. Mr. President, I am delighted to join with my colleagues today in commending our friend, the Senator from Hawaii [Mr. MATSUNAGA] for a valuable and farsighted contribution to our thinking about future approaches to the peaceful exploration of space, "The Mars Project: Journeys Beyond the Cold War." In his excellent new book, the Senator brings into focus the splendid opportunities the future holds for international cooperation in space.

At this point, we are beset with questions about the wisdom—or lack of it—in deploying weapons in space, mindful of the terrible *Challenger* disaster, and seized with the problems inherent in the deteriorated relationship with the Soviet Union. Accordingly, it is easy to become so enmeshed in current difficulties that we lose sight of the fact that there are wonderful future possibilities for us and those who will succeed us if we are wise enough to prepare the way now.

Since 1982, the Senator from Hawaii has introduced seven resolutions dealing with international cooperation in space. I have supported him wholeheartedly in those efforts. I was particularly pleased to join him as an original cosponsor with the Senator from Maryland [Mr. MATHIAS] of Senate Joint Resolution 236, which called for renewed cooperation with the Soviets in space cooperation and for the exploration of further opportunities for cooperative East-West ventures in space, including cooperative ventures in such areas of space medicine and space biology, planetary science, manned and unmanned space exploration. That resolution was approved by the Congress and signed into law by President Reagan on October 30, 1984.

The Senator has been vigorous in his efforts to identify other endeavors which could encourage and nurture greater cooperation, including an International Space Year in 1992 and a joint manned mission to Mars.

Senator MATSUNAGA writes:

Pursuit of the cold war is becoming, for lack of an alternative, the American dream. We need the Space Age to rediscover the best in ourselves. It presents America's leaders with an extraordinary opportunity to develop policies that use democratic openness as a force for constructive change. Sustained pursuit of those policies will, in turn, revive and rejuvenate the deepest hopes and aspirations of the American people. In its awesome vastness and grandeur, its transcendent opportunities, the Space Age is the American dream, cast onto a cosmic frontier.

Even while dealing with the bitter realities of the cold war, the United States should pursue distinctive Space Age policies whose objective is to go beyond the cold war. That task will place a special burden on the current generation of American leaders, forcing them to live in two worlds at once—a cold war on earth and a new age in space—until the transition from the first to the second is completed.

Mr. President, I do not hesitate in recommending this new work by Senator MATSUNAGA to my fellow Members. It will help us all understand the potential benefits—and pitfalls—as we move much more deeply into the space age.

THE MARS PROJECT: A MAINE DELEGATION VISITS MOSCOW IN SUPPORT OF A JOINT MISSION TO MARS

Mr. MITCHELL. Mr. President, in the years immediately ahead, the United States faces numerous crossroads. As a nation, we must confront issues—and hard choices—ranging from world trade to nuclear arms control.

The U.S. Space Program also faces major crossroads. In May, the report of the National Commission on Space, outlined possible challenges for us to pursue. This past week, we also have been reminded poignantly of the potential risks of those challenges, with the release of the report of the Presidential Commission on the Space Shuttle *Challenger* accident.

Major organizational changes now await the National Aeronautic and Space Administration [NASA]—along with a renewed commitment to safety, and design changes in the Shuttle Orbiter itself. But as the Rogers Commission pointed out in a "Concluding Thought" to its report, NASA and the Space Program are "a symbol of national pride and technological leadership."

The Commission applauded NASA's "spectacular achievements of the past"—and anticipated "impressive achievements to come."

One potential glimpse of achievements yet to come is provided by our colleague, Senator MATSUNAGA of Hawaii, in his recently published book "The Mars Project: Journeys Beyond The Cold War."

Senator MATSUNAGA's book is a statement of hope. It is a masterpiece of imagination and a blueprint for legislative determination. In one bold stroke, he addresses the need for the United States to retain our leadership in a global economy in the 1990's; the search for arms control and world peace; and the directions which our Space Program should follow.

"The Mars Project" challenges us to look beyond the arms race and the cold war to a joint, cooperative effort with the Soviet Union to launch a manned mission to Mars in the 21st century.

Senator MATSUNAGA has articulated an idea which is not a Buck Rogers fantasy or cosmic pipedream, but

rather, an opportunity that is within the outer limits of our grasp.

We already have taken first steps toward Mars. In 1976—the year of the American Bicentennial—our Viking I and II space probes orbitted and landed on Mars. In 1988, the Soviet Union will launch an unmanned scientific mission to the Mars moon, Phobos. In 1990, the United States will launch its Mars Observer probe.

There is no reason why the United States and the Soviet Union should not coordinate these next two scheduled missions to Mars, and use them as a springboard to the future. Together, we can proclaim 1992 as an International Space Year—the same year as the 500th anniversary of the discovery of America by Christoper Columbus; the 75th anniversary of the Russian Revolution; and the 35th anniversary of both the launching of sputnik and the International Geophysical Year.

The United States and the Soviet Union already have cooperated in the 1975 Apollo-Soyuz mission. The achievements of our respective space programs also are complementary. The Soviets have extensive experience with long-duration space flights. Americans have landed men on the Moon.

A joint American-Soviet mission to Mars would proclaim a bold frontier for the entire world. It would look beyond the strategic defense initiative to a higher purpose. Instead of "star wars," we would embark on a "star trek" together. Instead of the destructive competition of the arms race, it would represent a constructive, cooperative competition with the laws of physics.

My home State of Maine already has called on the United States Congress and the Soviet Union to rise to the challenge of peaceful space exploration. On February 21, 1986, the Maine State Legislature adopted a joint resolution calling on our governments "to do everything within their power to commit their nations to participation in a joint Soviet-American manned space flight to the planet Mars."

In the spirit of the late Samantha Smith, the young girl from Maine who traveled in 1983 to the Soviet Union on a mission for peace and understanding, the resolution of the Maine State Legislature was carried to Moscow in April 1986 by a delegation of 77 Maine high school students and educators. Leading the delegation was Mr. William Fortschen, a teacher at Mountview High School, who previously had been one of Maine's five finalists for NASA's "Teacher in Space"—an honor which finally went to our neighboring State of New Hampshire's Christa McAuliffe, who of course perished in the *Challenger* accident.

On April 22, 1986, the Maine students visited the Cosmonautics Museum in Moscow and presented the Maine State Legislature's resolution to former Apollo-Soyuz Cosmonaut Alexei Leonov. They also presented him with a copy of Senator MATSUNAGA's book.

U.S. astronaut Rusty Schweickart was present at the ceremony.

Four Soviet speakers attempted to link the proposal of a joint American-Soviet mission to Mars to the need for the United States to abandon the strategic defense initiative—saying that our nations cannot afford to pursue both.

But 13-year-old Dallas Brennan of Maine challenged the Soviet representatives, asking why they could not simply accept the proposal. The Maine State Legislature's resolution was presented by children representing the children of Maine—and the Mars Mission must not be a pawn in the arms race, but rather, as an aspiration and bond between the children of our two societies.

The Soviets were stunned—and impressed—by young Dallas' forthrightness. They then broke into smiling laughter and applause when 9-year-old Edith Webster, another member of the group, presented the Maine State flag to Cosmonaut Leonov—and asked him to please take it with him when he goes to Mars.

Cosmonaut Leonov will not live to travel to Mars. But the son or daughter of a Soviet cosmonaut very well may—and I can think of no greater achievement for our nations than if they are accompanied by one of our own American sons or daughters.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks, the full text of the Maine State Legislature's Mars resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MITCHELL. Mr. President, like Senator MATSUNAGA and the Maine State Legislature, I endorse the proposal for an American-Soviet mission to Mars. We also are not alone, and we are bipartisan in spirit. Senators MATHIAS of Maryland, PELL, of Rhode Island, PROXMIRE of Wisconsin, SIMON of Illinois, KASSEBAUM of Kansas, STAFFORD of Vermont, and GORTON of Washington, who chairs the Senate Commerce Committee's Subcommittee on Space, also support the concept.

A joint mission to Mars will provide an ideal opportunity for asserting the U.S. technological leadership. As Senator MATSUNAGA declares in his book: "Space is responsive to American instincts * * * American genius works best when it has room. American ingenuity thrives in the expansive physical environment of a new frontier."

A joint mission to Mars also represents a more prudent investment than the Reagan administration's strategic defense initiative—which again, as Senator MATSUNAGA writes, "will have no constructive economic application and might not even work. Space weapons systems won't provide infrastructure or constitute stepping-stones for space exploration and settlement. They will just sit up there in space, a trillion-dollar building block to nowhere."

It will cost the United States at least $8 billion to construct a space station by 1993. A manned Mars mission will cost $40 billion by one estimate. However, SDI would cost a hundred times that figure—and represent a tragic diversion of national resources.

On the other hand, a joint mission to Mars would spread the costs of space exploration. It would foster international cooperation and peace, not mutual distrust and the spectre of war.

Moreover, a joint American-Soviet mission to Mars will necessarily require the Soviet Union to join in open, democratic experiments. Again, as Senator MATSUNAGA so aptly points out: "Joint activity in space means open competition, which is inherently democratizing and favors free enterprise."

A joint mission to Mars would see levels of cooperation that elude us in other contexts. The 1975 Apollo-Soyuz Mission is a historical example. Its technical imperatives set precedents for openness, information exchange, coordination and verification—important issues which have otherwise defied resolution by our arms control negotiators.

We all share a hope for world peace. A joint mission to Mars could provide a vision of that peace.

Men and women must never cease to reach for the stars. Nations must never cease to reach out together in search of peace, in common spirit and purpose.

If not to ourselves, we owe this commitment to our children, and to future generations.

EXHIBIT 1

JOINT RESOLUTION

Whereas, a citizen of the State of Maine, Samantha Smith, has paved the road to understanding and cooperation between the people of the United States and the Soviet Union; and

Whereas, the recent summit meeting between Ronald W. Reagan, President of the United States, and Mikhail S. Gorbachev, General Secretary of the Communist Party of the Soviet Union, has opened new and exciting avenues for peaceful exchange of culture and technology; and

Whereas, 75 young students from the State of Maine will be traveling to the Union of Soviet Socialist Republics in April 1986, on a mission of friendship and education, in an effort to promote greater understanding and cooperation between the people of the United States of America and the people of the Union of Soviet Socialist Republics; and

Whereas, the United States and the Soviet Union pledged not to introduce nuclear or other weapons of mass destruction in Earth's orbit or on any other celestial body. According to the treaty ratified in Moscow and Washington in January 1967, the nations are to "facilitate and encourage international cooperation" in the scientific exploration of the Moon and planets and "shall regard astronauts as envoys of mankind;" and

Whereas, joint activities on other planets are explicitly encouraged by Article I of the Treaty, which reads: "The exploration and use of outer space, including the Moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind;" and

Whereas, further peaceful progress was made in May 1972, when United States President Richard M. Nixon and Soviet Premier Alexei Kosygin signed an agreement providing for United States-Soviet cooperation in exploring space for peaceful purposes; and

Whereas, joint cooperation was expanded by the Apollo-Soyuz space linkup in July 1975, between Lt. General Thomas Stafford, United States Air Force and Major General Alexei Leonov of the Soviet Air Force; and

Whereas, further Soviet and American joint activities in planetary exploration would contribute much toward the achievement of a lasting peace between our 2 great spacefaring nations; now, therefore, be it

Resolved, That We, your Memorialists, do hereby respectfully urge and petition the President of the United States of America and the General Secretary of the Communisty Party of the Soviet Union to do everything within their power to commit their nations to participation in a joint Soviet-American manned space flight to the planet Mars; and, be it further

Resolved, That duly attested copies of the Joint Resolution be transmitted to the President of the United States of America and the General Secretary of the Communist Party of the Soviet Union.

□ 1650

SENATOR MATSUNAGA AND AMERICA'S LEADERSHIP IN SPACE

Mr. BYRD. Mr. President, the Rogers Commission report on the *Challenger* disaster has been acclaimed as professional and through, and it was. That report has pointed the way toward resolving the failures of technology and management which it so carefully documented as having led to that catastrophe. It was necessary and proper that we look back carefully on the recent history of the Space Shuttle Program.

We must absorb and act on the lessons we have learned from that painful inquisition; but, Mr. President, we are not merely witnessing the end of one tragic episode in America's space program. We stand on the edge of opportunity for American leadership for the peaceful uses and explorations of space—in our immediate earthly environs, in the exploration of our solar system, and in the exploration of deep space. Our enterprises and explorations are limited only by our own visions and our own dreams. It is time for the United States to reassess, to look upward again, and to recapture the imagination of our people here and mankind everywhere.

Mr. President, the distinguished junior Senator from the State of Hawaii, Mr. MATSUNAGA, has been a leader in this body in the area of cooperative ventures in space, in articulating a vision for the future. His timing could not have been better. He has just published a book which expresses his philosophy and proposals on man and space. His book, entitled "The Mars Project: Journeys Beyond The Cold War" has just been made available. It is a powerful, persuasive, and positive prescription for the future of our space program.

It is upbeat and refreshing, and full of good ideas. It has been getting excellent reviews.

The underlying theme of Mr. MATSUNAGA's new book is that the virtues of openness, a value which he argues is the greatest asset and the most central characteristic of American society, will redound to our benefit in our space policy. The same openness that characterized the Rogers Commission inquiry, and produced its outstanding report, will lead to productive ventures, both commercial and scientific, in space exploration. At one point, he states:

Open opportunity—open government—open competition—open communication. I don't think Americans fully realize the decisive role that openness has played in the formation of our values and our institutions. Other nations have embraced democracy and capitalism, but none with the same unified commitment to openness as the United States. From that commitment comes the unique dynamism—the mobility, flexibility, individual freedom—of American society. Democratic openness is our greatest strength. Our weakness is a failure to fashion intelligent foreign policies that use it.

Mr. MATSUNAGA carefully chronicles the recent history of cooperation which has characterized European space efforts, and shows how even the Soviets have been willing to engage in joint ventures. He says, "space cooperation is becoming more international and governments are insulating it from short-term policy shifts in order to pursue its unique long-term potential." Mr. MATSUNAGA believes that the United States "bears a special responsibility not merely to follow but to lead in the move toward greater and enduring cooperation in space."

He has been tireless in pursuing his vision. Since 1982, he has introduced seven resolutions dealing with space cooperation, one calling for dedicating 1992 as an International Space Year. He has called for a joint Soviet American manned mission to Mars. He believes that the 1977 United States-Soviet space cooperation agreement, which was not renewed by the United States in 1982, should now be dusted off and renewed.

Mr. President, there is a great deal to recommend to my colleagues between the covers of Mr. MATSUNAGA's new book. I congratulate him on his achievement and I commend him for his dedicated and continuing leadership on the grand theme of American leadership in the open use and exploration of space. His emphasis on democratic competition and cooperation is one to which we can all relate. I look forward to working with him in the Senate to make his noble vision a practical reality for our Nation and for all people.

Mr. President, I ask unanimous consent that an item from the current issue of Air & Space, the magazine of the Smithsonian Institution, be printed in the RECORD at this point. The item bears the heading "The Mars Project: Journeys Beyond the Cold War, by Senator SPARK M. MATSUNAGA, Foreword by Arthur C. Clarke."

This is an excellent review of Mr. MATSUNAGA's excellent publication.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Air & Space Magazine, June-July 1986]

THE MARS PROJECT: JOURNEYS BEYOND THE COLD WAR, BY SENATOR SPARK M. MATSUNAGA, FOREWORD BY ARTHUR C. CLARKE

(By Katie Janssen)

Senator Spark Matsunaga asks, "Would someone in the policy-making councils of government please look up?" The senator from Hawaii might better have asked whether someone would please join him in doing so. Matsunaga has already looked up—literally, to the skies, and figuratively, to the future—and he has seen a refreshing panorama of possibilities for international cooperation in space.

Matsunaga does not claim any special knowledge of space science or exploration, dating his interest in space only to 1980, when he first visited the observatory on Mauna Kea. But perhaps only someone with this outside perspective could suggest such radical, but nonetheless essentially plausible, changes in American space policy.

Since 1982, Matsunaga has introduced seven Congressional resolutions dealing with international, particularly American-Soviet, cooperation in space. One calls for dedicating 1992—a year significant to both major space powers, since it is the 500th anniversary of Columbus's discovery of America and the 75th anniversary of the Russian Revolution—as an International Space Year for "concerted worldwide commemorative recognition" of progress in space. Most of the other resolutions propose ways to foster American-Soviet cooperation in ventures ranging from space medicine and biological research to space rescue operations.

But his grandest plan calls for a joint manned mission to Mars. Repeatedly, the senator explains his motives: "Allowing space to become an arena of conflict without first exerting every effort to make it an arena of cooperation would amount to an abdication of governmental responsibility that would never be forgotten."

The book reprints Matsunaga's Congressional resolutions (which in themselves make fascinating reading) and describes the context—both political and, to some extent, personal—in which he proposed them.

The senator argues that the logic of day-to-day politics and the cold war have combined to create a "closed loop of insanity"—a hypothesis best supported by the seemingly unstoppable arms race. Too often, the senator writes, American foreign policy simply reacts against Soviet foreign policy. American space policy has frequently followed the same reactive pattern: the Russians launched Sputnik, which Americans interpreted as the beginning of a "space race," so the U.S. inaugurated an intensive lunar-landing program. In this, the U.S. has unnecessarily handed the Soviets a tremendous advantage: the initiative.

Matsunaga suggests that asking the Soviets to join us in the trip to Mars would be a step toward taking the initiative ourselves. There is every indication that the Soviets would accept such an invitation. Over the years, the U.S. and the U.S.S.R. have developed oddly complementary space capabilities, "almost as if the two chief space powers . . . had unconsciously divided up the best initial opportunities," Matsunaga says. The U.S. has better planetary orbiters, while the Soviets have better planetary landers, for example. Cooperation on a major interplanetary expedition would thus serve the interests of both nations.

Such a massive project would require long-term planning on a scale to which American politicians are unaccustomed—but the benefits would be enormous. First and foremost, cooperation requires the open exchange of information—an inherently democratizing process, in Matsunaga's view—and this exchange would be just as beneficial to us as it would be to the Soviets. The threat of technology transfer would be minimal, since most of the technology employed in the types of missions Matsunaga envisions is already public knowledge, and any new technology could be adequately protected. Cooperation would prevent us from being "Sputniked" again—and it is worth noting that the Soviets have made no secret of their desire to send a manned mission to Mars. The 75th anniversary of the October Revolution would be a prime target date for a Soviet space spectacular. And finally, Matsunaga posits, cooperation would establish a precedent for peaceful cooperation and democracy in space that might prove decisive in shaping the laws by which space ultimately will be governed.

Matsunaga opposes the militarization of space. He is an outspoken and persuasive critic of Star Wars. "Even if the Strategic Defense Initiative works to perfection and Soviet ICBMs are rendered 'impotent,'" Matsunaga writes, "the disease [of arms build-up] will continue to spread: the Soviets will simply shift to other strategies of nuclear deployment even more mad than MAD [Mutually Assured Destruction]. . . . An 'impotent' nuclear-armed Soviet Union would present us with problems that would make Middle East terrorism seem like a playful lark."

This is not to say that he sees no role for the military in space: to the contrary, Matsunaga reminds us that "America's first and still most glorious expedition of exploration was led by two Army officers—Lewis and Clark." Drawing on that tradition, the senator proposes "a space exploration policy that aligns the Air Force with NASA. NASA would handle conception and design of all space missions, and the operation of unmanned missions. To the Air Force would fall operational direction of manned space exploration that would be carried out openly and in cooperation with other space-faring nations."

There is much more to this book: a discussion of American strengths and weaknesses in the global high-tech marketplace, for example, and speculation on the role of the frontier in shaping American history and national character.

The Senator's writing is not elegant—the jumps between personal autobiography, political memoir, and policy analysis are sometimes awkward—but Matsunaga is eloquent in his vision of hope for the future. The Mars Project could prove to be a tremendously important book, and it certainly should be read by anyone with an interest in America's space program.

Mr. MATSUNAGA. Mr. President, I would like to thank the distinguished Senator from West Virginia for his most generous remarks. My book "The Mars Project, Journeys Beyond the Cold War," is dedicated to the memory of my deceased father. However, the opening lines of the book's acknowledgments section constitute a second dedication, and here I quote:

I have had the privilege of serving as a member of the United States Congress since 1963. To acknowledge fully all that I have gained in learning and fellowship from my colleagues in the House of Representatives and the Senate is an impossible task. I hope this book will contribute to the ongoing and open congressional dialogue concerning United States policy in the Space Age.

This book, Mr. President, is in large part a statement of respect for the Congress and of profound gratitude to my colleagues, both in the House and in the Senate, for their part in adding to my learning process and providing an irreplaceable warm fellowship. Again, I would like to thank the distinguished Senator from West Virginia for his comments and for taking the time to read my book.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his gracious remarks. Again, I compliment him and thank him for this fine contribution to an exceedingly important subject.

COMMENDING SENATOR MATSUNAGA FOR HIS EFFORTS TO PROMOTE SPACE COOPERATION

Mr. MATHIAS. Mr. President, over the past 6 years, the distinguished Senator from Hawaii, SPARK MATSUNAGA, has vigorously pursued an imaginative strategy to improve East-West relations and expand our understanding of the universe. The key to his strategy is international cooperation in space. His new book, "The Mars Project: Journeys Beyond the Cold War," offers the world an intriguing plan for international space cooperation in a conflict-ridden age.

Space is the common frontier of all mankind. No boundaries have been claimed nor fences built. It therefore offers the international community a unique opportunity for cooperative efforts.

That is the visionary message of Senator MATSUNAGA's book. That is the vision the Senator wants us to see when he urges policymakers to "please look up." Space opens up a new dimension of possible cooperative ventures. By working together on projects in space, the international community can make the best use of its diverse resources and limit wasteful duplication of effort. More importantly, cooperation in space can help moderate international competition—particularly superpower competition—on Earth. The Apollo-Soyuz linkup is just one dramatic example of how space cooperation can serve this purpose. As Senator MATSUNAGA has so eloquently said,

Allowing space to become an arena of conflict without first exerting every effort to make it an arena of cooperation would amount to an abdication of governmental responsibility that would never be forgotten.

I have been privileged to work with Senator MATSUNAGA, Senator PELL, and others to make space an arena of cooperation. Reviving the United States-Soviet space cooperation agreement and mkaing 1992 an international space year are two critical steps along this path. We must continue to take such steps whenever possible. Eventually, we may be able to attain Senator MATSUNAGA's grand goal—a joint United States-Soviet manned mission to Mars.

Each cooperative step that we take along this journey beyond the cold war may seem small by itself; but taken together these small steps will constitute, to borrow the words of Neil Armstrong, "a giant leap for mankind." Senator MATSUNAGA has played an invaluable role in inspiring us to begin that leap.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I ask the Democratic leader if he is now prepared to entertain the boilerplate unanimous consent request.

□ 1700

Mr. BYRD. Yes, I say to the distinguished acting majority leader that this side is ready to proceed.

THE CALENDAR

Mr. DANFORTH. Mr. President, I would like to inquire of the minority leader if he is in a position to pass any of the following calendar items: Calendar No. 676, S. 2069; Calendar Order 683, Senate Joint Resolution 311; Calendar Order 684, Senate Joint Resolution 357; and Calendar 685, Senate Resolution 406.

Mr. BYRD. Mr. President, all of the calendar orders identified by the distinguished acting Republican leader have been cleared on this side, and we are ready to proceed with action thereon.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the calendar items just identified be considered en bloc, passed en bloc, and that all committee reported amendments and preambles be considered agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOB TRAINING PARTNERSHIP ACT AMENDMENT OF 1986

The Senate proceeded to consider the bill (S. 2069) to amend the Job Training Partnership Act, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike out all after the enacting clause, and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Job Training Partnership Act Amendments of 1986".

TRAINING PROGRAMS FOR OLDER INDIVIDUALS

SEC. 2. Section 124(d) of the Job Training Partnership Act (hereafter in this Act referred to as the "Act') is amended to read as follows:

"(d)(1) An individual shall be eligible to participate in the training program authorized by this section—

"(A) If the individual has attained 55 years of age; and

"(B)(i) is economically disadvantaged, or

"(ii) has a low income.

"(2) For the purpose of this subsection, low income includes any individual whose income is not more than 125 percent of the poverty guideline established pursuant to the Community Services Block Grant Act.".

PRESIDENTIAL AWARDS FOR OUTSTANDING BUSINESS INVOLVEMENT IN JOB TRAINING PROGRAMS

SEC. 3. Part D of title I of the Act is amended by adding at the end thereof the following new section:

"PRESIDENTIAL AWARDS FOR OUTSTANDING BUSINESS INVOLVEMENT IN JOB TRAINING PROGRAMS

"SEC. 172. (a)(1)(A) The President is authorized to make Presidential awards for outstanding achievement by business in the job training partnership program authorized by this Act. The President is authorized to make such awards to individual executive officers who, and business concerns which, have demonstrated outstanding achievement in planning and administering job training partnership programs or in contributing to the success of the job training partnership program.

"(B) In making the awards pursuant to subparagraph (A) of this paragraph, the President shall consider the effectiveness of the program for which the award is made.

"(2) The President is authorized to make Presidential awards for model progams in the job training partnership program authorized by this Act which demonstrate effectiveness in addressing the job training needs of groups of individuals with multiple barriers to employment.

"(b)(1) Each year the President is authorized to make such awards under subsection (a) of this section as the President determines will carry out the objectives of this Act.

"(2) The President shall establish such selection procedures, after consultation with the Secretary and the Governors of the States, as may be necessary.".

WITHIN STATE ALLOCATION

SEC. 4. (a)(1) Section 202(a) of the Act is amended—

"(A) by striking out "Of" in paragraph (2) and by inserting in lieu thereof the following: "Subject to the provisions of paragraph (3), of";

"(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following new paragraph:

"(3)(A) Each Governor may provide that any service delivery area within a State may receive more than the allocation for a fiscal year determined under this subsection for that fiscal year, but in no event more than 90 percent of the average share or amount which the service delivery area received for each fiscal year for the 3 fiscal years prior to the fiscal year for which the determination is made.

"(B) Each fiscal year in which a Governor revises the allocation pursuant to subparagraph (A) of this paragraph, the Governor shall reallocate the allocations among service delivery areas not affected by the adjustments made pursuant to subparagraph (A) of this paragraph.".

(2) For the purpose of determining the hold harmless for the program year beginning July 1, 1986, under the amendment made by paragraph (1) of this subsection, the Governor shall recalculate the 9-month transition period described in section 161(c)(1) of the Job Training Partnership Act on a 12-month basis.

(b) The last sentence of section 202(b)(3)(B) of the Act is amended by striking out "which do not qualify for incentive grants under this subparagraph".

SERVICES TO YOUTH

SEC. 5. Section 203(b)(1) of the Act is amended by adding at the end thereof the following new sentence: "For the purpose of the preceding sentence, the term 'eligible youth' includes individuals who are 14 and 15 years of age.".

SUMMER YOUTH EMPLOYMENT PERFORMANCE STANDARDS

SEC. 6. (a) Part B of title II of the Act is amended by inserting at the end thereof the following:

"REMEDIAL EDUCATION SET-ASIDE AND PERFORMANCE STANDARDS

"SEC. 255. (a) For fiscal year 1987 and for each of the three succeeding fiscal years, in each service delivery area 25 percent of the amount available for this part for such year for the service delivery area shall be reserved for the conduct of remedial education programs.

"(b) During the period described in subsection (a), the Secretary shall develop standards to be applied to programs conducted under this part. Such standards may include (A) improvement in basic educational skills, (B) improvement in English language proficiency, and (C) attainment of recognized youth employment competencies prescribed pursuant to section 106(b)(2)(A).

"(c) Beginning after September 30, 1990, the Secretary shall establish and apply standards of performance for programs under this part based upon subsection (b).".

(b) The table of contents of the Act is amended by inserting after item "Sec. 254." the following new item:

"Sec. 255. Performance standards.".

IDENTIFICATION OF DISLOCATED WORKERS

SEC. 7. (a) Section 302(a) of the Act is amended—

(1) by striking out "or" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon and the word "or"; and

(3) by inserting at the end thereof the following:

"(4) were self-employed and are unemployed as a result of general economic conditions in the community in which they reside or because of natural disasters subject to the next sentence.

The Secretary shall establish categories of self-employed individuals and of economic conditions and natural disasters to which clause (4) of the preceding sentence applies.".

(b) Section 302(d) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Whenever the State determines that it is practicable, the State is authorized, in carrying out the provisions of this title, to assist eligible individuals who reside outside the State but are employed in a labor market area, part of which is located within the State or employed in a service delivery area that is contiguous to a service delivery area in the State.".

REFERRAL OF APPLICANTS

SEC. 8. Section 424 of the Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall improve the coordination between training programs authorized by this Act conducted in service delivery areas and the Job Corps program. In carrying out the provisions of the preceding sentence, the Secretary shall assure that applicants for programs in service delivery areas should be referred to Job Corps centers, and vice versa, where the requirement of this subsection is appropriate and feasible.".

VETERANS' AMENDMENTS

SEC. 9. (a)(1) Section 4(5) of the Act is amended by inserting after "handicapped" a comma and the following: "including disabled veterans".

(2) Section 4(27) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C) The term 'recently separated veteran' means any veteran who applies for participation under any title of this Act within 48 months of the discharge or release from active military, naval, or air service.

"(D) The term 'Vietnam era veteran' means a veteran any part of whose active military service occurred between August 5, 1964, and May 7, 1975.".

(b) Section 106(b)(3) of the Act is amended by striking out "and offenders" and inserting in lieu thereof "disabled and Vietnam era veterans, including veterans who served in the Indochina Theater between August 5, 1964, and May 7, 1975, and offenders".

(c) Section 108(c)(2)(B)(ii) of the Act is amended by inserting after "handicapped individuals" a comma and the following: "including disabled veterans".

(d) Section 121(c)(10) of the Act is amended by adding before the period at the end thereof a comma and the following: "including Veterans' Administration programs".

(e) Section 123(c)(1) of the Act is amended by inserting after "offenders" a comma and the following: "veterans".

(f) Section 124(b) of the Act is amended by inserting after "nonprofit private organizations" a comma and the following: "including veterans organizations".

ADDITIONAL EXPERIMENTAL AND DEVELOPMENTAL PROJECTS AUTHORIZED

SEC. 10. Section 453(a) of the Act is amended—

(1) by inserting "(1)" after the subsection designation, and

(2) by adding at the end thereof the following new paragraph:

"(2) From funds made available under this part, the Secretary may provide financial assistance for pilot projects for the training of individuals who are threatened with loss of their jobs due to technological changes, international economic policies or, general economic conditions.".

PROJECTS FOR SPECIAL POPULATIONS

SEC. 11. (a) Part D of title IV of the Act is amended by adding at the end thereof the following new section:

"PROJECTS FOR SPECIAL POPULATIONS

"SEC. 456. In carrying out this part, the Secretary shall include projects designed to serve populations with multiple barriers to employment, such as individuals listed in section 203(a)(2) and individuals not otherwise targeted for assistance under this Act, with special consideration for displaced homemakers and the handicapped.".

(b)(1) Section 4 of the Act is amended by inserting at the end thereof the following new paragraph:

"(29) The term 'displaced homemaker' means an individual who—

"(A) was a full-time homemaker for a substantial number of years; and

"(B) derived the substantial share of his or her support from—

"(i) a spouse and no longer receives such support due to the death, divorce, or permanent disability of the spouse; or

"(ii) public assistance an account of dependents in the home and no longer receives such support.".

(2) The table of contents of the Act is amended by adding after item "Sec. 455." the following new item:

"Sec. 456. Projects for special populations.".

THE JOB TRAINING PARTNERSHIP ACT AMENDMENTS OF 1986

Mr. QUAYLE. I am pleased that the Senate is considering S. 2069, the Job Training Partnership Act [JTPA] Amendments of 1986, which I introduced on February 7, 1986. S. 2069 is the result of oversight activities that have taken place since JTPA was enacted on October 13, 1982.

Senator KENNEDY, the ranking minority member of the Labor and Human Resources Committee, is a cosponsor of these amendments, as he was of the original JTPA legislation I introduced. S. 2069 had bipartisan support throughout committee consideration and I am confident that it will also have bipartisan support during consideration by the full Senate today. Also, I commend Senator HATCH, chairman of the committee, for his leadership during the development and consideration of S. 2069.

These amendments are based on oversight findings from the initial implementation period of JTPA, starting October 1983 and extending through the end of this month, which marks the completion of the first 2-year planning period. During this time, the Subcommittee on Employment and Productivity has clearly monitored the implementation of JTPA through oversight hearings, site visits, and informal discussions. The subcommittee also received written comments from other congressional offices, research groups, and from State and local program operators throughout the country.

On behalf of myself and my staff, I would like to thank everyone in Indiana who assisted and advised us on program operations during oversight. I applaud my constituents for their diligent commitment to making JTPA an effective program. In particular, I wish to thank the Indiana Office of Occupational Development which responded to our numerous inquiries in a timely and professional manner.

Many thanks are also due to other individuals and organizations who have conducted research and provided valuable expertise and advice to the committee members and their staff, contributing to our oversight findings. I would like to name just a few of these organizations that deserve special acknowledgment: the Department of Labor, the National Commission for Employment Policy, the Cogressional Research Service, the Government Accounting Office, the Office of Technology Assessment, the National Governor's Association, the National Alliance of Business, the National Association of Counties, Wider Opportunities for Women, the Opportunities Industrialization Centers of America [OIC's], 70,001, the Manpower Development and Research Corporation, and the New England Training and Employment Council.

To briefly summarize the oversight findings, testimony indicated strong and widespread support for the public-private partnership that is credited for program success. Witnesses testified that the increased autonomy and flexibility accompaning JTPA's decentralized approach is essential to the continued involvement of the private sector. There is consensus that, with the exception of some fine tuning to enhance the ability of service delivery areas to meet the goals of JTPA, changes are not necessary and amendments should be avoided.

I support these findings. In general, States and service delivery areas should explore administrative remedies to common problems rather than seek legislative solutions. When JTPA was enacted, it was recognized that program stability is essential for effective administration; a factor that contributed to the instability of previous employment and training programs was the tendency to legislate frequent changes. From the time it was enacted in 1972 to its termination in 1982, the Comprehensive Employment and Training Act [CETA] had major programmatic changes annually. There is broad agreement that JTPA should not be subject to the same constant revision. Therefore the amendments we are considering today are the first offered since the enactment of JTPA. They neither alter the goals of the act nor change the new administrative structure.

Having recognized these points, we also recognize that legislative changes are sometimes necessary to ensure program stability. Also, the need for stability must be weighed against the need to respond to legitimate concerns. In S. 2069, we have attempted to strike a balance among these competing demands.

Now I will turn to a brief description of some significant provisions of the bill.

An amendment that will enhance program stability authorizes Governors to apply a hold harmless on allocations to service delivery areas for title II. The hold harmless level may be as high as 90 percent and it would be applied to the average of service delivery areas' share or amount for the prior 3 years.

This amendment is necessary because the substate allocation formula has resulted in extreme fluctuations in funding levels for service delivery areas, as high as 25 percent or more in some cases. These fluctuations interfere with program planning and the maintenance of an administrative structure.

Another significant improvement is a requirement that all service delivery areas set-aside 25 percent of their allocation for the Summer Youth Program, title II-B, to fund a remedial education component for those youth who lack basic literacy skills. This provision will be in effect temporarily, from fiscal year 1987 to fiscal year 1990. During that time the Secretary will collect data and develop performance standards for all aspects of the Summer Youth Program. In fiscal year 1991, the set-aside will expire and the performance standards will be implemented.

This amendment is in response to reports about alarmingly high illiteracy rates among youth, particularly among disadvantaged youth. In response to this national problem, the committee believes that funds available to serve disadvantaged youth during the summer months should be used to reduce illiteracy, either through classroom training or in conjunction with work experience. Re-

ports indicate that during the summer months youth suffer academic loss which for disadvantaged youth may contribute to high dropout rates. The academic loss is particularly important since the level of education has a major impact on future success in the job market.

One other significant change is a clarification that dislocated farmers are eligible to participate in the Dislocated Worker Program, title III. Recognizing that farming is only the most recent occupation to be affected, the language has been broadly worded to permit the Secretary to establish categories of self-employed individuals eligible for title III.

In conclusion, I believe this package of amendments to JTPA is noncontroversial and that S. 2069 deserves broad support. I urge my colleagues to approve these necessary changes. I want to express my special appreciation to Renee Coe, of my subcommittee staff, who worked so hard on this bill.

I ask unanimous consent that a description of the provisions contained in S. 2069 be inserted in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

TRAINING PROGRAMS FOR OLDER INDIVIDUALS

Sec. 2: Add the income eligibility criteria for the Community Services Employment Program, Title V of the Older Americans Act.

PRESIDENTIAL AWARDS

Sec. 3: Establish Presidential Awards to acknowledge outstanding private sector involvement, through direct and indirect contributions, to the successful operations of job training programs. Also, establish awards to recognize outstanding model programs for serving individuals with multiple barriers to employment.

WITHIN STATE ALLOCATION

Sec. 4(a): Authorize Governors to use up to a 90 percent hold harmless on the Title II-A allocations for service delivery areas, based on the average allocation for the three preceding program years.

Sec. 4(b): Authorize Governors to use the balance of funds available under the six percent setaside for technical assistance to all service delivery areas.

SERVICES TO YOUTH

Sec. 5: Clarify that, if services are provided to 14 and 15 year olds for activities such as pre-employment training, the cost of those services may be charged to the service delivery area's credit in meeting the requirement to spend 40 percent of its funds on youth.

SUMMER YOUTH PROGRAM

Sec. 6: Require service delivery areas to use 25% of funds available for the Summer Youth program to provide a remedial education component for four years. During that time the Secretary of Labor will collect data and develop performance standards for the Summer Youth program. These performance standards will take effect after September of 1990 at which time the 25 percent requirement will terminate.

DISLOCATED WORKERS

Sec. 7(a): Expand the eligibility criteria to authorize the Secretary to establish categories of self-employed individuals eligible for services, such as dislocated farmers.

Sec. 7(b): Authorize States to serve eligible individuals who live outside the State but whose place of employment is within the State.

REFERRAL OF APPLICANTS

Sec. 8: Require cross referral of applicants, where appropriate, between Job Corps centers and service delivery areas.

VETERANS

Sec. 9: Insert "including disabled veterans" after "handicapped" in the definition of community based organizations; add definitions of "recently separated veteran" and "Vietnam era veteran"; add "Vietnam era veteran" to language requiring the Secretary to prescribe performance standards for national programs; insert "including disabled veterans" following "handicapped" in language prescribing a waiver of the 30 percent cost limitation for individuals requiring substantial additional supportive services; insert "including Veterans' Administration programs"; in language authorizing the Governor to coordinate with related Federal, State, and local programs; insert "including veterans organizations" after "nonprofit private organizations" in language authorizing the Governor to contract with public and private service providers.

RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

Sec. 10: Authorize the Secretary of Labor to conduct pilot projects, with funds available under Title IV, Part D, to retrain individuals threatened with the loss of their jobs due to technological changes, international economic policies, or general economic conditions.

Sec. 11: Require the Secretary to use funds available for research, demonstration, and pilot projects, under Title IV, Part D, for populations with multiple barriers to employment, with special consideration for displaced homemakers and handicapped.

Mr. SIMON. Mr. President, I want to join the majority leader and the distinguished chairman of the Subcommittee on Employment and Productivity in support of S. 2069, the Job Training and Partnership Amendments of 1986. These amendments make minor, but important changes in the Job Training and Partnership Act [JTPA] and are based on extensive hearings held by the subcommittee. I want to commend my friend and colleague from Indiana, Senator DAN QUAYLE, for his persistence and diligence in conducting hearings on the implementation of the JTPA program since its enactment into law in October of 1982. The subcommittee, under Senator QUAYLE'S leadership, held extensive hearings in Indiana and here in Washington.

S. 2069 makes several significant changes which I strongly support: First, a new requirement that 25 percent of funds available for the Summer Youth Program be spent on a "remedial education component;" second, the definition of dislocated workers is clarified to include self-employed individuals, especially farmers, who have been adversely affected by farm prices, the availability of credit and the devaluation of farm land; and third, several new research and demonstration programs are authorized for displaced homemakers and for the retraining of currently employed workers whose jobs are threatened with the loss of their jobs to technological changes, international economic policies, or general economic conditions.

I am especially pleased that the bill includes stronger provisions to improve the language and computation skills of inner-city youth. A summer job which does not reenforce the academic program in our public high schools may place money temporarily in the pockets of eligible summer youth, but does nothing to build on the knowledge and skills they need to succeed in life.

I also appreciate the chairman's willingness to work with me to fashion an amendment to provide for the retraining of those currently employed but who may shortly face unemployment. Under the current law, only those persons who have been notified of their termination or permanent layoffs are eligible to receive assistance under title III, JTPA. Many U.S. manufacturers—facing increasingly serious challenges from high quality, low-cost foreign competitors—are committed to keeping as much manufacturing as possible in this country. To ensure a continual strong production and employment base, these companies are making major investments in the highest technology available. Most current State and Federal Government programs focus on training costs for the dislocated worker. While the need in this area is critical, attention must also be given to retraining workers faced with the need to upgrade their job skills to guarantee continued employment in this high-tech era.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as amended.

NATIONAL WOMEN VETERANS RECOGNITION WEEK

The joint resolution (S.J. Res. 311) designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 311

Whereas there are more than one million one hundred and eighty thousand women

veterans in this country, representing 4.2 per centum of the total veteran population;

Whereas the number and proportion of women veterans will continue to grow as the number and proportion of women serving in the Armed Forces continue to increase;

Whereas women veterans through honorable military service often involving hardship and danger have contributed greatly to our national security;

Whereas the contributions and sacrifices of women veterans on behalf of this Nation deserve greater public recognition and appreciation;

Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;

Whereas this lack of attention to the special needs of women veterans has discouraged or prevented women veterans from taking full advantage of the benefits and services to which they are entitled as veterans of the United States Armed Forces; and

Whereas recognition of women veterans by the Congress and the President through enactment of legislation declaring the week beginning on November 9, 1986, as "National Women Veterans Recognition Week" would serve to create greater public awareness and recognition of the contributions of women veterans, to express the Nation's appreciation for their service, to inspire more responsive care and services for women veterans and to continue and reinforce important gains made in this regard in the last two years as a result of the designation of the first and second National Women Veterans Recognition Weeks in November of 1984 and 1985; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 9, 1986, is designated "National Women Veterans Recognition Week". The President is requested to issue a proclamation calling upon all citizens, community leaders, interested organizations, and Government officials to observe that week with appropriate programs, ceremonies, and activities.

NATIONAL HISTORICALLY BLACK COLLEGES WEEK

The joint resolution (S.J. Res. 357) to designate the week of September 15, 1986, through September 21, 1986, as "National Historically Black Colleges Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 357

Whereas there are one hundred and one Historically Black Colleges and Universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the Historically Black Colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 15, 1986, through September 21, 1986, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies, activities, and programs, thereby demonstrating support for Historically Black Colleges and Universities in the United States.

HONORING THE ANNIVERSARY OF ORGANIZED CAMPING IN THE UNITED STATES

The resolution (S. Res. 406) honoring the 125th anniversary of organized camping in the United States, was considered, and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 406

Whereas, in August of 1861, Frederick William Gunn, headmaster of the Gunnery School in Washington, Connecticut, set out with his students on a forty-mile excursion to Welches Point on Long Island Sound in the first recorded organized children's summer camping experience in the history of our Nation;

Whereas the camp at Welches Point promoted the development and self-discipline of the participants, and was perceived to have been a valuable experience for the young students and adults who pitched tents and lived for two weeks in the out-of-doors, doing their own cooking, fishing, and chores, and enjoying songs and stories by campfire at night;

Whereas since those origins in the late nineteenth century, organized camping has provided young people with activities designed to promote personal growth and development skills; to encourage positive behavioral change; and to foster the ability to communicate with both other children and adults;

Whereas today over eleven thousand camps, in fifty States, serve four million young Americans each year; and

Whereas 1986 is the one hundred and twenty-fifty anniversary of organized camping in the United States;

Resolved, That due honor and recognition be accorded the institution of organized camping in its one hundred and twenty-fifth year of existence, with the acknowledgement of the contributions that organized camping has and continues to offer the youth of America, together with invaluable opportunities for enhanced mental, physical, spiritual, and social development.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the bill and resolutions were passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SAFETY IN THE WORKPLACE WEEK

Mr. DANFORTH. Mr. President, I ask the Democratic leader if he is prepared to consider House Joint Resolution 131.

Mr. BYRD. Mr. President, House Joint Resolution 131 has been cleared by all Members on this side, and we are ready to proceed.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Joint Resolution 131 dealing with safety in the workplace just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 131) to designate the week of June 15, 1986, as National Safety in the Workplace Week.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 131) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNIFORMED SERVICES RETIREMENT SYSTEM

Mr. DANFORTH. Mr. President, I ask the Democratic leader if he is prepared to move to a House message on H.R. 4420.

Mr. BYRD. There is no objection on this side.

Mr. DANFORTH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4420.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 4420) entitled "An Act to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following are appointed as conferees: Mr. Aspin, Mr. Price, Mr. Bennett, Mr. Montgomery, Mr. Dickinson, Mrs. Holt, and Mr. Hillis.

Appointed as additional conferees: For the consideration of titles I–III of the House bill, and sections 1–12 of the Senate amendment; Mrs. Schroeder, Mr. Skelton, Mr. Sisisky, Mr. Robinson, Mr. Bustamante, Mr. Hunter, Mr. Bateman, and Mr. Sweeney.

For the consideration of title IV of the House bill, and sections 13–15 of the Senate amendment: Mr. Stratton, Mr. Nichols, Mr. Daniel, Mr. Dellums, Mr. Mavroules, Mr. Whitehurst, Mr. Spence, Mr. Badham, and Mr. Stump.

Mr. DANFORTH. Mr. President, I move that the Senate insist on its amendment, and agree to the conference requested by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. DURENBERGER] appointed Mr. GOLDWATER, Mr. THURMOND, Mr. WARNER, Mr. HUMPHREY, Mr. COHEN, Mr. QUAYLE, Mr. EAST, Mr. WILSON, Mr. DENTON, Mr. GRAMM, Mr. NUNN, Mr. STENNIS, Mr. HART, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, and Mr. GLENN conferees on the part of the Senate.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

□ 1705

REFERRAL OF S. 1793

Mr. DANFORTH. Mr. President, is the Democratic leader prepared for the next item before me which is referral of S. 1793?

Mr. BYRD. Yes, Mr. President, we are ready on this side to accede to that request.

Mr. DANFORTH. Mr. President, I ask unanimous consent that Calendar No. 657, S. 1793, be referred to the Committee on Armed Services for a period not to exceed 45 calendar days, provided that the Committee on Armed Services shall consider only section 3(b) relating to the CHAMPUS Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. DANFORTH. Mr. President, I would like to inquire of the minority leader if he is in a position to confirm any or all of the following Executive Calendar nominations: Calendar No. 855, Stephen F. Williams; Calendar No. 856, William W. Wilkins, Jr.; Calendar No. 857, Douglas P. Woodlock; Calendar No. 858, William D. Stiehl; Calendar No. 859, John E. Conway; Calendar No. 860, Edwin M. Kosik; Calendar No. 861, Karen LeCraft Henderson; Calendar No. 862, James G. Richmond; Calendar No. 863, James P. Jonker; Calendar No. 864, Laurence C. Beard; Calendar No. 865, Denny L. Sampson; Calendar No. 866, Patricia Diaz Dennis; Calendar No. 867, J. Edward Fox; Calendar No. 868, G. Norman Anderson; Calendar No. 869, John Dale Blacken; Calendar No. 870, Paul Matthews Cleveland; Calendar No. 871, Patricia Gates Lynch; Calendar No. 872, Vernon DuBois Penner, Jr.; Calendar No. 873, Cynthia Shepard Perry; Calendar No. 874, Chester A. Crocker; Calendar No. 875, Edward Noonan Ney; Calendar No. 876, Arch L. Madsen; Calendar No. 877, James Albert Michner; and Calendar No. 878, Lilla Burt Cummings.

Mr. BYRD. Mr. President, on the several nominations that have been identified by the distinguished acting Republican leader, on this side there are no objections on the part of any Member. We are ready to proceed with action thereon.

EXECUTIVE SESSION

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Senate now go into executive session to consider the nominations just identified and that the nominations so identified be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF WILLIAM D. STIEHL TO BE A U.S. DISTRICT JUDGE

Mr. SIMON. Mr. President, Bill Stiehl, a lawyer from Belleville, IL, has been confirmed for a Federal judgeship.

Bill Stiehl is going to be a very fine Federal judge. He has only one liability that I know of and that is his party affiliation. But that does not seem to have been an insurmountable liability with the administration and so he has been nominated, and he will be a good judge for all the people of that area.

I am very pleased that he has been nominated. I know I express the opinion of Senator DIXON in this also.

NOMINATION OF WILLIAM D. STIEHL

Mr. DIXON. Mr. President, I have known Bill Stiehl since childhood. He is a lifelong resident of Belleville, IL—my own hometown. He is a great lawyer and a great public servant. Most of all he is truly a great friend, a man I respect on two levels—personal and professional.

I attest to the integrity of Bill Stiehl. I attest to his probity, his intelligence, and his capacity for fairness under the law. William D. Stiehl offers the southern district of Illinois a rare opportunity to gain a district judge with a proven record of honor and straightforwardness.

After graduating from the University of North Carolina, Bill Stiehl attended the St. Louis University School of Law. He completed his formal legal education in 1949. In that year, Bill Stiehl entered into private practice in Belleville, IL.

From 1950 to 1952, William Stiehl served in the Korean war. He was legal advisor to the naval delegate at the Korean Armistice conference. He returned to Illinois in 1952 and began a universally respected career as a lawyer and public servant.

From 1956 to 1960, Bill served as assistant State's attorney for St. Clair County. From 1970 to 1973, he served as a special assistant attorney general. He is the president of Belleville Township High School and junior college board of education.

Mr. President, I cannot begin to say enough about the accomplishments and personal integrity of my friend William Stiehl. He has never failed his hometown or his State, and I am certain he will never fail the law as a U.S. district judge.

NOMINATION OF WILLIAM W. WILKINS, JR.

Mr. THURMOND. Mr. President, I rise today to voice my strong support for William W. Wilkins, Jr., President Reagan's nominee to be a judge on the fourth circuit court of appeals. Judge Wilkins presently serves as a U.S. district judge for South Carolina as well as chairman of the U.S. Sentencing Commission.

Judge Wilkins is a native of Greenville, SC, a graduate of Davidson College, and the University of South Carolina School of Law. He was editor-in-chief of the South Carolina Law Review, captain of the South Carolina national moot court team, and a member of the Wig and Robe. During his senior year in law school, Judge Wilkins was selected by the faculty as the outstanding graduate of the year.

After law school, Judge Wilkins served for 2 years in the U.S. Army. Upon his discharge from active duty, he worked as a law clerk to former Chief Judge Clement F. Haynsworth, Jr., of the U.S. Court of Appeals for the Fourth Circuit.

After completing his work with Judge Haynsworth, Judge Wilkins served as a legislative assistant for the Antitrust and Monopolies Subcommittee of the Senate Judiciary Committee.

In January 1971, he returned to Greenville and entered the private practice of law. In January 1975, Judge Wilkins was sworn in as solicitor for the 13 judicial circuit. This meant that he was the State district attorney for a large judicial circuit. He was reelected to that position in 1978. Judge Wilkins was the first solicitor elected in South Carolina on the Republican ticket since Reconstruction. He developed a reputation as a fearless and vigorous prosecuting attorney yet one who always treated everyone fair and equal.

Judge Wilkins was appointed U.S. district judge for the district of South Carolina on July 22, 1981, and thus became the first Federal judge appointed by President Reagan. In addition to performing his duties on the district level, Judge Wilkins has served

as an appellate judge on the fourth circuit by designation.

In October 1985, President Reagan appointed Judge Wilkins Chairman of the U.S. Sentencing Commission. He was served diligently and enthusiastically in that capacity.

Judge Wilkins compiled a fine record as public servant. During his tenure on the district court in South Carolina, he demonstrated that he is a man of courage and ability. Judge Wilkins is committed to hard work and is deserving of the highest marks for judicial temperament. I was very pleased to recommend Judge Wilkins to President Reagan and I am confident that he will be an outstanding circuit court judge. I urge my colleagues to vote for his confirmation.

NOMINATION OF KAREN LECRAFT HENDERSON

Mr. THURMOND. Mr. President, I am very pleased today to recommend Mrs. Karen L. Henderson for confirmation as U.S. district judge for the district of South Carolina. Mrs. Henderson was born in Oberlin, OH. She graduated in 1966 from Duke University where she received her bachelor of arts degree. Mrs. Henderson then entered the University of North Carolina School of Law and received her juris doctorate degree in 1969. From 1969-71 she was a practicing attorney in North Carolina, and in 1973 she passed the South Carolina bar examination. From 1973-82, Mrs. Henderson served with distinction with the office of the attorney general for the State of South Carolina. In this capacity she served as assistant attorney general from 1973-78. From 1978-82, she served as senior assistant attorney general and director of the special litigation section. In 1982, she served as the first woman deputy attorney general and director of the criminal division. In 1983, Mrs. Henderson joined the law firm of Sinkler, Gibbs & Simons, where she has continued to prove herself as a very able attorney.

Mrs. Henderson, who will be the first woman appointed to the Federal court in South Carolina, brings to the bench impressive qualifications and a legal background that is well suited to the Federal district court. Her areas of specialization have included constitutional law as well as criminal and administrative law. She is a woman of ability, integrity, and independence. Mrs. Henderson is a dedicated and trustworthy individual whose commitment to justice for all is exemplified through the courage of her convictions. Mrs. Henderson's outstanding record speaks for itself. She has the experience and the judicial temperament to become an outstanding judge for the district court. It was with considerable pride that I recommended Mrs. Henderson to President Reagan for this very important position, and I urge my colleagues to vote in favor of Karen Henderson for the position of district court judge for the district of South Carolina.

NOMINATION OF DOUGLAS P. WOODLOCK

Mr. KERRY. Mr. President, I support the nomination of Douglas P. Woodlock as a Federal judge for the U.S. District Court for the District of Massachusetts. I will vote in favor of his confirmation, and I urge my colleagues to do so as well.

I have spoken many times, on the floor of the Senate and elsewhere, about my concern over the trend toward ideological "litmus tests" for the Federal judiciary. I am pleased to note that Douglas Woodlock does not fall into that category. Mr. Woodlock is a first-rate nominee for the Federal bench, and one whom I am pleased to support. He is an extremely able lawyer, and I know that he will be a fine Federal judge for Massachusetts.

Douglas Woodlock comes to the Federal bench well prepared by a wide range of legal experience. He is currently a partner with the distinguished firm of Goodwin, Proctor & Hoar in Massachusetts, where he has engaged in securities, trade regulation, constitutional law, criminal law, land use, and corporate litigation. Prior to this, Mr. Woodlock was a special assistant to the New England Organized Crime Strike Force, where he prosecuted drug smuggling cases. He also served from 1979-82 as assistant U.S. attorney in Boston, where he was involved in the investigation and prosecution of crimes of political corruption, white-collar fraud, and large-scale narcotics distribution. Mr. Woodlock was the recipient of the 1982 "Director's Award" of the Executive Office of United States Attorneys in Washington, DC for his successful prosecution of several political corruption cases.

I have met with Mr. Woodlock, and discussed with him his judicial philosphy, and his concept of the role of a Federal judge. He has assured me that he sees himself as neither liberal nor conservative, but rather as a practitioner of legal craft. I agree with Mr. Woodlock that the proper role of a Federal judge is not to promote an ideological agenda, but rather to interpret the law in light of past precedent, and in conformity with the Constitution. I an confident that Douglas Woodlock will fulfill that role fairly and properly.

Mr. President, I have previously criticized President Reagan for his approach to judicial nominations, and for placing ideology before quality in too many cases. So I am pleased now to commend President Reagan for his selection of Douglas Woodlock as a Federal judge. In selecting Mr. Woodlock, President Reagan has met a high standard of quality. I hope that we will see more nominees like Douglas Woodlock in the future.

NOMINATION OF JOHN E. CONWAY

Mr. DOMENICI. Mr. President, I rise in support of the confirmation on the nomination of John E. Conway to the U.S. District Court for the District of New Mexico. Late last year, this body approved the nomination of Judge Bobby R. Baldock to the U.S. Court of Appeals for the Tenth Circuit. I am pleased that President Reagan has nominated Mr. Conway to succeed Judge Baldock on the district court.

It is fitting that Mr. Conway should be nominated to replace Judge Baldock on the district court, not only because both are outstanding members of the legal profession, but also because Mr. Conway was selected by the New Mexico Federal Judicial Selection Committee as a finalist for the district court seat to which Judge Baldock eventually was appointed in 1983. It is now Mr. Conway's turn to come before the Senate.

When the vacancy on the district court occurred, John Conway immediately came to mind as the candidate to fill it. He demonstrates the intelligence, high character, temperament, and diligence which are hallmarks of American judges. After reviewing Mr. Conway's background, President Reagan agreed that Mr. Conway's qualifications and experience make him an excellent candidate for the Federal judiciary and nominated him for the district court.

Let me share some of Mr. Conway's qualifications with you. John Conway was born in Joplin, MO, in 1934. He attended the U.S. Naval Academy from 1952 to 1956, when he received his bachelor of science degree. After serving his country as a first lieutenant in the U.S. Air Force from 1956-60, Mr. Conway attended Washburn University Law School. He received his law degree magna cum laude and was ranked first in his class. He served as both editor-in-chief of the Washburn University Law Journal and president of the Student Bar Association.

After graduating from law school, Mr. Conway practiced law with Matias A. Zamora in Santa Fe. In 1964, he joined the Wilkinson & Durrett law firm in Alamogordo. He stayed with this firm, which eventually became Durrett, Conway & Jordan, until 1980. He also served as city attorney for the city of Alamogordo from 1966-72. Mr. Conway currently is a partner with the Albuquerque office of the Montgomery & Andrews law firm.

Mr. Conway has been admitted to practice before the courts of New Mexico, both State and Federal, the U.S. Claims Court, the U.S. Court of Appeals for the Tenth Circuit, and the Supreme Court of the United States.

It is noteworthy, since the district court is the Federal trial court, that Mr. Conway's practice consists pre-

dominantly of litigation. He, therefore, will bring with him to the district court the experience of many years of trial practice and the knowledge of the rules of evidence and procedure which are so vital to the proper functioning of our courts. This wealth of experience is reflected in the fact that the American Bar Association committee which evaluated Mr. Conway's qualifications for a district court judgeship unanimously voted to give Mr. Conway a rating of "well qualified."

Mr. Conway has a long history of service to the State of New Mexico. He served as State senator from Otero and Lincoln Counties from 1970–80. He was chosen by his fellow Republican senators to be minority leader of the State senate from 1972–80. He has served as chairman of the New Mexico Judicial Council, the Governor's Organized Crime Prevention Commission, and the Disciplinary Board of the New Mexico Supreme Court. He also has served on the New Mexico State Bar Judicial Selection Committee, the New Mexico Medical-Legal Committee, which is New Mexico's medical malpractice review panel, and the National Commissioners on Uniform State Laws.

He has been involved with a large number of organizations serving his profession, including the American Bar Association, the New Mexico Bar Association, the Albuquerque Lawyers Club, the Albuquerque Bar Association, and the Otero County Bar Association, of which he served as president.

Mr. Conway is married to Karen Howard Conway. He has three sons, John, Matthew, and Christopher, and three stepchildren, Rebecca, Geoffrey, and Strom Peterson.

I would also like to point out that my junior colleague from New Mexico, Senator BINGAMAN, as well as Representatives LUJAN and SKEEN from the House of Representatives, testified on behalf of Mr. Conway at his confirmation hearing. This broad and bipartisan support is indicative of the respect in which Mr. Conway is held in New Mexico.

Of course, this is just a brief portrait of Mr. Conway, but I'm sure that the Senate will agree that it has before it a man of extraordinary achievement. It is easy to see why the President nominated Mr. Conway for this position.

In sum, I would say that John Conway is well suited by training, experience, and temperament to serve on the Federal judiciary. I look forward to John Conway being able to bring his unique talents and long history of service to the U.S. district court. I hope that the Senate will act favorably on this nomination.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Stephen F. Williams, of Colorado, to be U.S. circuit judge for the District of Columbia Circuit.

William W. Wilkins, Jr., of South Carolina, to be U.S. circuit judge for the fourth circuit.

Douglas P. Woodlock, of Massachusetts, to be U.S. district judge for the District of Massachusetts.

William D. Stiehl, of Illinois, to be U.S. district judge for the southern district of Illinois.

John E. Conway, of New Mexico, to be U.S. district judge for the district of New Mexico.

Edwin M. Kosik, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania.

Karen LeCraft Henderson, of South Carolina, to be U.S. district judge for the district of South Carolina.

DEPARTMENT OF JUSTICE

James G. Richmond, of Indiana, to be U.S. attorney for the northern district of Indiana.

James P. Jonker, of Iowa, to be U.S. marshal for the northern district of Iowa.

Laurence C. Beard, of Oklahoma, to be U.S. marshal for the eastern district of Oklahoma.

Denny L. Sampson, of Nevada, to be U.S. marshal for the district of Nevada.

FEDERAL COMMUNICATIONS COMMISSION

Patricia Diaz Dennis, of Virginia, to be a member of the Federal Communications Commission.

DEPARTMENT OF STATE

J. Edward Fox, of the District of Columbia, to be an Assistant Secretary of State.

G. Norman Anderson, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sudan.

John Dale Blacken, of Washington, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Paul Matthews Cleveland, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, now Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Western Samoa.

Patricia Gates Lynch, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

Vernon Dubois Penner, Jr., of New York, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Cynthia Shepard Perry, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

AFRICAN DEVELOPMENT FOUNDATION

Chester A. Crocker, an Assistant Secretary of State, to be a member of the Board of Directors of the African Development Foundation.

BOARD FOR INTERNATIONAL BROADCASTING

Edward Noonan Ney, of New York, to be a member of the Board for International Broadcasting.

Arch L. Madsen, of Utah, to be a member of the Board for International Broadcasting.

James Albert Michener, of Pennsylvania, to be a member of the Board for International Broadcasting.

Lilla Burt Cummings Tower, of Texas, to be a member of the Board for International Broadcasting.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the nominations were considered and confirmed en bloc.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Senate now resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JUNE 16, 1986

Mr. DANFORTH. Mr. President, I ask unanimous consent that once the Senate reconvenes on Monday, June 16, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the calendar be dispensed with, and that following the recognition of the two leaders under the standing order there be special orders in favor of the following Senators not to exceed 5 minutes each: Senators KASSEBAUM, PROXMIRE, BAUCUS, GORE, MELCHER, and LEVIN;

To be followed by a period for the transaction of routine morning business not to extend beyond the hour of 12 noon with Senators permitted to speak therein for not more than 5 minutes each;

Provided, further, that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object—I will not object—what time will the Senate be convening on Monday next?

Mr. DANFORTH. 11 a.m.

Mr. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DANFORTH. Mr. President, to recapitulate the schedule for Monday, the Senate will convene at 11 a.m. The two leaders will be recognized under the standing order for 10 minutes each. Thereafter, there will be special orders in favor of the following Senators for not to exceed 5 minutes each: Senators KASSEBAUM, PROXMIRE, BAUCUS, GORE, MELCHER, and LEVIN.

Subsequent to those special orders, there will be a period for routine morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak therein for not more than 5 minutes each.

Following morning business, the Senate will resume the unfinished business, H.R. 3838, the tax reform bill. Votes can be expected during Monday's session but will not occur prior to the hour of 3:30 p.m. and not past the hour of 6 p.m.

ADJOURNMENT UNTIL MONDAY, JUNE 16, 1986, AT 11 A.M.

Mr. DANFORTH. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in adjournment until Monday, June 16, 1986, at 11 a.m.

The motion was agreed to and, at 5:10 p.m., the Senate adjourned until Monday, June 16, 1986, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 13, 1986:

FEDERAL COMMUNICATIONS COMMISSION

Patricia Diaz Dennis, of Virginia, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1980.

DEPARTMENT OF STATE

J. Edward Fox, of the District of Columbia, to be an Assistant Secretary of State.

G. Norman Anderson, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sudan.

John Dale Blacken, of Washington, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Paul Matthews Cleveland, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Western Samoa.

Patricia Gates Lynch, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America in the Federal and Islamic Republic of the Comoros.

Vernon Dubois Penner, Jr., of New York, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Cynthia Shepard Perry, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

AFRICAN DEVELOPMENT FOUNDATION

Chester A. Crocker, an Assistant Secretary of State, to be a member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1991.

BOARD FOR INTERNATIONAL BROADCASTING

Edward Noonan Ney, of New York, to be a member of the Board for International Broadcasting for a term expiring April 28, 1988.

Arch L. Madsen, of Utah, to be a member of the Board for International Broadcasting for a term expiring April 28, 1987.

James Albert Michener, of Pennsylvania, to be a member of the Board for International Broadcasting for a term expiring April 28, 1987.

Lilla Burt Cummings Tower, of Texas, to be a member of the Board for International Broadcasting for a term expiring May 20, 1989.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Stephen F. Williams, of Colorado, to be U.S. circuit judge for the District of Columbia Circuit.

William W. Wilkins, Jr., of South Carolina, to be U.S. circuit judge for the fourth circuit.

Douglas P. Woodlock, of Massachusetts, to be U.S. district judge for the district of Massachusetts.

William D. Stiehl, of Illinois, to be U.S. district judge for the southern district of Illinois.

John E. Conway, of New Mexico, to be U.S. district judge for the district of New Mexico.

Edwin M. Kosik, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania.

Karen LeCraft Henderson, of South Carolina, to be U.S. district judge for the district of South Carolina.

DEPARTMENT OF JUSTICE

James G. Richmond, of Indiana, to be U.S. attorney for the northern district of Indiana for the term of 4 years.

James P. Jonker, of Iowa, to be U.S. Marshal for the northern district of Iowa for the term of 4 years.

Laurence C. Beard, of Oklahoma, to be U.S. Marshal for the eastern district of Oklahoma for the term of 4 years.

Denny L. Sampson, of Nevada, to be U.S. Marshal for the district of Nevada for the term of 4 years.